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STATE CORPORATION COMMISSION

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PETITION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2020-00274

For approval of its 2020 DSM Update
pursuant to § 56-585.1 A 5 of the Code of Virginia

REPORT OF A. ANN BERKEBILE, SENIOR HEARING EXAMINER

July 20, 2021

Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion Energy" or "Company") seeks approval of: (1) new demand-side management ("DSM") Phase IX Programs; (2) the extension of its existing Non-residential Distributed Generation ("DG") Program; (3) the expansion of eligibility requirements for its DSM Phase VII and VIII Programs; (4) updated C1A, C2A, and C3A rate adjustment clauses ("RACs"); and (5) a new C4A RAC. Based on the record, I find the Company's Phase IX Programs, its request for the extension of the DG Program, and its expanded eligibility request for certain previously approved Programs should be approved. I also find that C1A, C2A, C3A, and C4A RACs should be approved with a total overall revenue requirement for the four RACs of \$73,837,376. In addition, I conclude Dominion Energy should be directed to provide certain additional analysis and information, including its long-term DSM plan, with its next DSM filing.

HISTORY OF THE CASE

On December 2, 2020, Dominion Energy filed a Petition pursuant to § 56-585.1 A 5 of the Code of Virginia ("Code") and various rules and regulations of the State Corporation Commission ("Commission") seeking the approval of its implementation, extension, and expansion of various DSM Programs ("Petition"). The Company also requested a waiver of the Commission's Cost/Benefit Rules¹ as they relate to the House Bill ("HB") 2789 (Solar Component) Program.² Concurrent with its Petition, Dominion Energy filed a Motion for Entry of a Protective Ruling and Additional Protective Treatment ("PR Motion"), along with a proposed Protective Ruling ("Proposed Ruling"), pursuant to Rules 110³ and 170⁴ of the Commission's Rules of Practice and Procedure ("Rules of Practice").⁵

On December 18, 2020, the Commission entered an Order ("Preliminary Order") docketing this matter and denying the Company's request for a waiver of the Cost/Benefit Rules

¹ 20 VAC 5-304-10 *et seq.*

² Petition at 9. A copy of the Petition (together with supporting Filing Schedules) was introduced as an exhibit ("Ex.") at the hearing. See Ex. 2 and 2ES. Although the Company submitted public and extraordinarily sensitive versions of Petition, only the public information in the Petition is referenced herein.

³ 5 VAC 5-20-110.

⁴ 5 VAC 5-20-170.

⁵ 5 VAC 5-20-10 *et seq.*

related to the HB 2789 (Solar Component) Program.⁶ The Commission directed Dominion Energy to provide the results of a cost/benefit analysis and the information required by the Cost/Benefit Rules including the HB 2789 (Solar Component) Program and indicated that the Petition would not be complete until such information was provided.⁷

On January 7, 2021, the Company filed supplemental information addressing the Commission's directive in the Preliminary Order regarding the required cost/benefit analysis.

On January 15, 2021, the Commission entered an Order for Notice and Hearing ("Procedural Order") that, among other things, required the Company to provide notice of the Petition;⁸ established a schedule for the filing of notices of participation and prefiled testimony; scheduled a hearing on the Petition for June 8, 2021, and appointed a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and to file a report including the Hearing Examiner's findings and recommendations. The Procedural Order also provided that the beginning of the hearing on June 8, 2021, would be conducted telephonically for the receipt of public witness testimony and established additional procedures for the telephonic portion of the hearing ("Public Witness Session").⁹ Moreover, the Procedural Order provided that additional details pertaining to the remainder of the hearing on June 8, 2021, would be provided by subsequent Commission Order or Hearing Examiner Ruling.¹⁰

On January 20, 2021, the Company's PR Motion was granted in the Hearing Examiner's Protective Ruling and Additional Protective Treatment for Extraordinarily Sensitive DSM Contracts and Prices Information.

Notices of Participation were filed by Appalachian Voices ("Environmental Respondent"); the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel"); the Virginia Committee for Fair Utility Rates ("Committee"); and the Board of Supervisors of Culpeper County, Virginia ("Culpeper").

On April 19, 2021, I entered a Ruling adopting additional special procedures for the portion of the hearing on June 8, 2021, following the Public Witness Session.

On June 8, 2021, the Natural Resources Defense Council ("NRDC") timely filed written comments in this docket urging the Commission to reject budget caps for the Company's energy efficiency ("EE") Programs and recommending that Dominion Energy's proposed budget for the new proposals be treated as a floor rather than a cap.¹¹

⁶ Preliminary Order at 4.

⁷ *Id.* at 4-5.

⁸ The Company's proof of notice and service was accepted into the record as Ex. 1.

⁹ Procedural Order at 12.

¹⁰ *Id.* at 13.

¹¹ Although the Virginia Department of Mines, Minerals and Energy submitted written comments dated June 8, 2021, such comments were not actually filed until June 10, 2021 (after the evidentiary hearing). Similarly, Kerri Walker, Vice President of Energy Conservation Programs for project:HOMES, submitted a written comment on June 8, 2021, which was not actually filed until June 9, 2021.

The hearing in this matter was convened on June 8, 2021, as scheduled. Vishwa B. Link, Esquire, Lisa R. Crabtree, Esquire, and April M. Jones, Esquire, appeared on behalf of Dominion Energy. Nathaniel Benforado, Esquire, and Josephus Allmond, Esquire, appeared on behalf of the Environmental Respondent. John E. Farmer, Jr., Esquire, appeared on behalf of Consumer Counsel. Kiva Bland Pierce, Esquire, Andrea B. Macgill, Esquire, and Austin Skeens, Esquire, appeared on behalf of the Staff of the Commission ("Staff"). The Committee and Culpeper did not appear at the hearing.

The transcript of the hearing ("Tr.") was filed on June 14, 2021.

In accordance with the agreement of case participants, a Ruling was entered on June 11, 2021 ("June 11th Ruling"), establishing July 2, 2021, as the deadline for the filing of post-hearing briefs.¹² Consistent with the June 11th Ruling, the Company, Environmental Respondent, Consumer Counsel, and Staff filed post-hearing briefs on July 2, 2021.¹³

SUMMARY OF THE RECORD

As explained by Dominion Energy in the Petition: "[s]ince 2009, the Company has annually filed updates to its DSM Portfolio, including requests to implement new DSM Programs, continue or expand existing DSM Programs, and/or update cost information."¹⁴ The Company noted that in the *July 30, 2020 Order*¹⁵ (pertaining to Dominion Energy's 2019 DSM Update), the Commission approved Dominion Energy's Phase VIII petition to implement 11 new DSM Programs and approved Riders C1A, C2A, and C3A effective for usage on and after September 1, 2020.¹⁶ Furthermore, the Commission directed the Company in the *July 30, 2020 Order* to file its next DSM update by December 3, 2020.¹⁷

The Company listed the 11 Phase IX DSM Programs for which it seeks approval and explained that it seeks the approval of the Phase IX DSM Programs for a five-year period, from January 1, 2022, to December 31, 2026, subject to future extensions as requested and granted by the Commission.¹⁸ Furthermore, based on HB 2789, the Company seeks approval of its proposed HB 2789 (Solar Component) Program for a three-year term.¹⁹ The Company advised that the proposed cost cap for the Phase IX DSM Programs, in the aggregate, is approximately \$162 million.²⁰ Consistent with its prior DSM requests, Dominion Energy also requested the

¹² In addition, the transcript of the hearing on June 8, 2021 was filed on June 14, 2021.

¹³ See Post-Hearing Brief of Virginia Electric and Power Company ("Company Brief"); Post-Hearing Brief of Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel Brief"); Environmental Respondent's Post-Hearing Brief ("ER Brief"); Post-Hearing Brief of the Staff of the State Corporation Commission ("Staff Brief").

¹⁴ Ex. 2 and 2ES, at 4.

¹⁵ *Petition of Virginia Electric and Power Company, For approval of its DSM Update pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUR-2019-00201, Final Order (July 30, 2020) ("*July 30, 2020 Order*").

¹⁶ Ex. 2 and 2ES, at 4; *July 30, 2020 Order* at 12-13.

¹⁷ *July 30, 2020 Order*, Ordering Paragraph (4).

¹⁸ Ex. 2 and 2ES, at 8.

¹⁹ *Id.*

²⁰ *Id.*

ability to exceed the spending cap by no more than 5 %.²¹ In addition, the Company sought authorization to spend directly for these Programs for a reasonable amount of time before and after the requested five-year period to launch and wind-down activities.²² Dominion Energy confirmed it analyzed each DSM Program individually, as well as the DSM Portfolio as a whole, using the four required cost/benefit tests.²³

Regarding DSM Programs previously approved by the Commission, Dominion Energy requested approval of the extension of the DSM Phase II Non-residential DG Program for an additional two years.²⁴ Furthermore, the Company requested Commission approval of expanded eligibility requirements for the following previously approved Non-residential DSM Phase VII and Phase VIII Programs: (1) Non-residential Lighting Systems and Controls; (2) Non-residential Heating and Cooling Efficiency; and (3) Non-residential Window Film and Small Manufacturing Programs.²⁵ According to the Company, because of changes established in the Virginia Clean Economy Act (“VCEA”)²⁶ eliminating exemptions for larger customers over 500 kilovolts (“kV”) and the resulting requirement for larger customers to begin paying for Phase VI and VIII EE Programs as of the beginning of the proposed Rate Year, such large customers “should also be eligible to participate in the Non-residential [P]rograms available through those DSM Phases.”²⁷

Dominion Energy advised that the Rate Year in this proceeding is September 1, 2021, through August 31, 2022, for Riders C1A, C2A, C3A and its new proposed Rider C4A.²⁸ Consistent with § 56-585.1 A 5 c of the Code, the Company utilized a margin based on the general rate of return on common equity (“ROE”) of 9.2% in accordance with the Commission’s 2019 ROE Order,²⁹ except for the proposed Phase IX HB 2789 (Solar Component) Program.³⁰ Dominion Energy initially requested a total revenue requirement for Riders C1A, C2A, C3A, and C4A of \$78,119,830.³¹ However, based upon supplemental adjustments identified by the Company in its 2021 Triennial Review,³² the Company ultimately supported a rebuttal revenue

²¹ *Id.*

²² *Id.*

²³ *Id.* at 8-9.

²⁴ *Id.* at 9.

²⁵ *Id.* at 10.

²⁶ 2020 Va. Acts chs. 1193, 1194.

²⁷ Ex. 2 and 2ES, at 10.

²⁸ *Id.* at 11. Because the Commission is unlikely to issue a final order in time for the implementation of new rates as of September 1, 2021, the Company explained at the hearing that existing DSM RAC rates would remain in effect until new rates are approved and associated collection issues will be addressed in a future True-up. Tr. at 284 (Lecky). Staff shared this understanding. *Id.*

²⁹ Ex. 2 and 2ES, at 12. *Application of Virginia Electric and Power Company, For the determination of the fair rate of return on common equity pursuant to § 56-585.1:1 C of the Code of Virginia*, Case No. PUR-2019-00050, Final Order (Nov. 21, 2019) (“2019 ROE Order”).

³⁰ Ex. 2 and 2ES, at 12. It is the Company’s understanding that no margin on operation and maintenance (“O&M”) expenses is authorized for Programs proposed pursuant to § 56-585.1 A 5 g of the Code. *Id.* Similarly, Dominion Energy did not seek a margin for the Rider C1A peak shaving Programs. *Id.* at 12-13.

³¹ *Id.* at 14.

³² *Application of Virginia Electric and Power Company, For a 2021 triennial review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUR-2021-00058 (“2021 Triennial Review”).

requirement of \$78,713,092, with the understanding that its recovery in this proceeding would be limited to the revenue requirement that was publicly noticed.³³

Public Witnesses

Billy Whitsenfeld testified as a representative of the Association of Energy Conservation Professionals ("AECF"), a not-for-profit 501 C 3 organization, in support of Dominion Energy's Residential Income and Age Qualifying ("IAQ") Program.³⁴ He asserted that such a Program assists the weatherization industry, helps save energy, helps reduce greenhouse emissions, helps decrease energy demand, and helps to protect the environment.³⁵ He also clarified that the AECF's not-for-profit status does not prohibit it from generating revenue and explained that some income is required for AECF to provide services.³⁶

Dana Wiggins testified as a representative of the Virginia Poverty Law Center ("VPLC").³⁷ According to Ms. Wiggins, the VPLC recognizes EE as a least cost resource for low-income customers.³⁸ In addition, she highlighted the VPLC's concern regarding the income eligibility requirements for the Residential IAQ Program and suggested the Company's proposal failed to appropriately address impediments to low-income customer access in affluent areas.³⁹ More specifically, she confirmed the VPLC's belief (previously expressed in the stakeholder process) that the income requirement should not exceed 80% of local area median income or 60% of the state median income, *whichever is greater*.⁴⁰ In addition, Ms. Wiggins expressed concern regarding Dominion Energy's inclusion of the HB 2789 (Solar Component) Program in this DSM case, highlighted alternative no-cost solar power options being considered for low-income customers, and suggested the Commission take a broader view of low-income solar power options rather than approving the HB 2789 (Solar Component) Program.⁴¹ Furthermore, she discussed the General Assembly's adoption of an EE resource mandate directing a spending percentage for low-income EE Programs and believed savings from such Programs need to be distinguished to facilitate low-income Program development.⁴² When cross-examined by Staff, Ms. Wiggins also confirmed the VPLC's belief that low-income customers in rural areas should have access to EE.⁴³

Chase Counts, testified that he is Senior Director for Community Partners or CHP Energy Solutions, a 501 C 3 provider of low-income weatherization services.⁴⁴ He maintained that his organization is uniquely qualified to ascertain the weatherization needs of the low-

³³ Ex. 19 and 19ES, at 3.

³⁴ Tr. at 13-15.

³⁵ *Id.* at 15.

³⁶ *Id.* at 16.

³⁷ *Id.* at 21.

³⁸ *Id.* at 21-22.

³⁹ *Id.* at 22-24.

⁴⁰ *Id.* at 23-24.

⁴¹ *Id.* at 24-25.

⁴² *Id.* at 25-26.

⁴³ *Id.* at 28.

⁴⁴ *Id.* at 30-31.

income population.⁴⁵ Mr. Counts represented that multi-family housing has historically been underserved regarding weatherization services because of resource constraints.⁴⁶ Furthermore, he suggested the IAQ Program should not be considered in a vacuum and, instead, should be considered in the context of other weatherization resources available for low-income customers.⁴⁷ He also confirmed that he participated in the DSM stakeholder process and did not recall information being shared regarding the Residential IAQ Program's provision of a \$7.39 annual savings average.⁴⁸ He acknowledged such amount appeared low but maintained it should be considered in the context of other low-income weatherization options that are available.⁴⁹

Walton Shepard testified on behalf of the NRDC.⁵⁰ He maintained that Dominion Energy is "slow walking" its EE deployment and noted that the \$162 million proposal is the smallest DSM proposal put forth by the Company.⁵¹ He also noted that Dominion Energy's DSM Programs are only serving four out of 100 of its current customers and urged the Commission to eliminate budget caps associated with the Company's DSM Programs.⁵² When questioned by Staff, Mr. Shepard also agreed that better marketing is needed for the DSM Programs.⁵³

Dominion Energy's Direct Testimony

Dominion Energy submitted the direct testimony of **Nathan J. Frost**, director of new technology and energy conservation ("EC") for the Company; **Michael T. Hubbard**, manager of EC for the Company; **Edmund J. Hall**, energy market strategist advisor in the Company's strategic planning organization; **Jarvis E. Bates**, energy conservation compliance consultant for the Company; **Elizabeth Lecky**, regulatory specialist in the Company's Regulatory Accounting Department; **Christopher C. Hewett**, a regulatory specialist in the Company's Rates Department; **Emilia L. Catron**, a regulatory analyst for the Company; and **Dan Feng**, a senior consultant for DNV.⁵⁴

Mr. Frost offered testimony to:

- (1) Explain the Company's approach towards DSM, particularly in light of the passage of the VCEA;
- (2) Present an overview of the Company's request for approval of DSM Phase IX;

⁴⁵ *Id.* at 31-32.

⁴⁶ *Id.* at 32.

⁴⁷ *Id.*

⁴⁸ *Id.* at 33-34.

⁴⁹ *Id.* at 35.

⁵⁰ *Id.* at 37.

⁵¹ *Id.* at 37-38.

⁵² *Id.* at 38-39.

⁵³ *Id.* at 43.

⁵⁴ As clarified by Ms. Feng at the hearing, DNV was formerly known as DNV GL. Tr. at 100. I note further that the transcript of the hearing mistakenly spells Ms. Feng's first name as "Dawn" rather than "Dan."

- (3) Present the Company's requests relative to existing DSM Programs;
- (4) Provide an overview of the Company's cost recovery request for the [Rate Year] through revised Riders C1A, C2A, C3A and proposed C4A;
- (5) Describe the Company's compliance with the [Commission] order and directives in the 2019 DSM Update proceeding; and
- (6) Introduce the other witnesses presenting testimony and summarize the requests presented by the Company with this [Petition].⁵⁵

Mr. Frost reported that in 2019, approximately 85,000 customers participated in the Company's DSM Programs with approximately \$20.2 million disbursed in rebate payments.⁵⁶ He confirmed that each year, energy savings associated with the Company's DSM Programs are subject to evaluation, measurement and verification ("EM&V") by the Company's third-party EM&V vendor, DNV.⁵⁷ He also confirmed Dominion Energy files annual EM&V reports, which provide energy and demand reductions, as well as spending, participation, and other performance indicators, by Program.⁵⁸

Mr. Frost noted that the VCEA became effective July 1, 2020, and includes several changes applicable to the Company's DSM Programs.⁵⁹ Among other things, he explained the VCEA requires the Commission to allow the Company's recovery of a margin on DSM Program operating expenses until January 1, 2022, after which Dominion Energy's continued recovery of a margin is dependent upon certain factors.⁶⁰ In addition, he explained that the VCEA directed the Commission to establish new opt-out criteria for eligible customers implementing their own EE measures.⁶¹ Furthermore, he testified that the VCEA requires certain DSM costs to be associated with Programs designed for the benefit of low-income and elderly customers.⁶² He also indicated that the VCEA expanded the scope of the topics to be considered by the stakeholder group and now requires the use of a third-party evaluator to perform EM&V services.⁶³

Mr. Frost testified that based on information provided by the independent moderator-led stakeholder group, the Company modified the low-income customer eligibility criteria to allow

⁵⁵ Ex. 3, at 2.

⁵⁶ *Id.* at 3.

⁵⁷ *Id.* at 3-4.

⁵⁸ *Id.* at 4.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.* at 5.

⁶³ *Id.*

for the use of differing income levels for differing regions of the state.⁶⁴ In addition, he highlighted Dominion Energy's introduction of Cadmus, an outside consultant, to the stakeholder group and the Company's intended reliance upon Cadmus in the development of a long-term DSM plan.⁶⁵

Regarding the \$870 million by 2028 target in the Grid Transformation and Security Act ("GTSA"), Mr. Frost explained that the Company has spent approximately \$476 million on EE since the passage of the GTSA.⁶⁶ In addition, he testified that Dominion Energy is evaluating current and future EE savings estimates in connection with sales.⁶⁷ Similarly, he testified that stakeholder input was utilized in the development in all of the Phase IX DSM Programs proposed in the Petition.⁶⁸

Mr. Frost next discussed Dominion Energy's request for the approval of a short-term extension of its DSM Phase II Non-residential DG Program for an additional two years given the DG Program's continued status as an important resource for the Company during periods of peak demand.⁶⁹ He explained further that the Company seeks a short-term extension of the DG Program to bridge the gap between the current Program and similar Programs Dominion Energy may consider in the future.⁷⁰ In addition, he explained Dominion Energy's request for the expansion of the eligibility requirements for its Phase VII and VIII Non-residential DSM Programs (excluding the Phase VII Non-residential Office Program and the Phase VIII Small Business Improvement Enhancement Programs) arising from the VCEA's limitation on automatic exemptions for customers over 500 kV.⁷¹

Mr. Frost confirmed the total revenue requirement initially requested by the Company.⁷² He also confirmed Dominion Energy's proposed allocation methodology is consistent with the methodology previously approved by the Commission.⁷³ Likewise, he confirmed that the Company complied with the Commission's directives in its *July 30, 2020 Order* to submit (a) annual EM&V reports; and (b) an exhibit similar to Exhibit 5 in Case No. PUE-2013-00072.⁷⁴ Lastly, Mr. Frost introduced the other witnesses providing direct testimony for the Company and summarized Dominion Energy's requests in its Petition.⁷⁵

When cross-examined by Staff, Mr. Frost explained that the frequently asked questions ("FAQs") associated with Dominion Energy's DSM Programs are developed after the Programs are approved often with input from the Program designer.⁷⁶ He also agreed that it is important to

⁶⁴ *Id.* at 6-7.

⁶⁵ *Id.* at 7.

⁶⁶ *Id.*

⁶⁷ *Id.* at 7-8.

⁶⁸ *Id.* at 10.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at 10-11.

⁷² *Id.* at 11.

⁷³ *Id.*

⁷⁴ *Id.* at 12.

⁷⁵ *Id.* at 12-14.

⁷⁶ Tr. at 78-79.

maximize the EE obtained from a Program for the associated cost but emphasized that additional considerations are factored into a Program's development.⁷⁷

Mr. Hubbard provided: (i) an update on the status of the Company's approved DSM Programs and proposed updates to such Programs; (ii) an overview of the new proposed Phase IX DSM Programs; (iii) a discussion of the quality assurance process and an update on the Company's controls related to the rebate approval process; and (iv) a discussion of certain provisions of the Commission's Promotional Allowance Rules.⁷⁸

Mr. Hubbard listed the Company's active and existing DSM Programs, other than the Phase IX DSM Programs, as follows:

- Residential AC Cycling;
- Residential IAQ Home Improvement;
- Residential Appliance Recycling;
- Residential Efficient Products Marketplace;
- Residential Home Energy Assessment;
- Non-residential Distributed Generation;
- Small Business Improvement;
- Non-residential Prescriptive;
- Non-residential Lighting Systems and Controls;
- Non-residential Heating and Cooling Efficiency;
- Non-residential Window Film;
- Non-residential Small Manufacturing; and
- Non-residential Office.⁷⁹

Mr. Hubbard explained that Dominion Energy seeks an additional two-year extension of its DSM Phase II Non-residential DG Program because it continues to serve as an important resource during periods of peak demand.⁸⁰ He further explained that the Company seeks the extension to bridge a gap between the current Program and future potential Programs that are similar in nature.⁸¹

Mr. Hubbard next described the Company's proposed updates to existing DSM Programs based upon the VCEA's eligibility modifications. He explained that the VCEA changed the exemption requirements for larger customers to avoid paying for EE Programs by redefining a Large General Service ("LGS") Customer "as a customer that has a verifiable history of having used more than one megawatt ("MW") of demand from a single site."⁸² He also noted that the Commission initiated a rulemaking proceeding to establish qualifications and opt-out procedures for LGS Customers seeking exemption from participation in the Company's DSM Programs

⁷⁷ *Id.* at 80.

⁷⁸ Ex. 4, at 2.

⁷⁹ *Id.* at 4.

⁸⁰ *Id.*

⁸¹ *Id.* at 5.

⁸² *Id.*

(who are now required to opt-out rather than automatically being exempt.⁸³ According to Mr. Hubbard, Dominion Energy believes Program cost recovery and eligibility changes are also warranted at this time.⁸⁴ He testified that the Company intends to begin charging all LGS Customers who have not opted out of EE charges for the previously approved Programs (subject to Rider C3A) as of the beginning of the Rate Year.⁸⁵ Furthermore, he explained that Dominion Energy proposes to expand the eligibility requirements for certain DSM Phase VII and Phase VIII Programs because of the VCEA's elimination of the automatic exemption for customers with a demand threshold changing from 500 kV to 1 MW.⁸⁶ At the same time, Dominion Energy believes it would be appropriate to allow LGS Customers to begin participating in most of the Company's Non-residential Phase VII and Phase VIII Programs.⁸⁷ According to Mr. Hubbard, the Company does not seek any additional funds associated with such Programs beyond the previously approved cost caps.⁸⁸

Mr. Hubbard next provided an update on the Company's launch efforts related to its Phase VIII and Phase VI Thermostat and Customer Engagement Programs (approved in the *July 30, 2020 Order*).⁸⁹ In addition, he summarized Dominion Energy's request for the approval of new DSM Phase IX Programs.⁹⁰ Among other things, he differentiated Dominion Energy's proposed Phase IX Non-residential Enhanced Prescriptive Program from the Non-residential Prescriptive Program included in Phase VI. He did so by highlighting the Enhanced Prescriptive Program's inclusion of an updated measure mix consistent with current technical manuals and feedback from customers, trade allies, and equipment vendors.⁹¹ In addition, he outlined the eligibility requirements for the proposed Phase IX DSM Programs.⁹²

Mr. Hubbard also described the request for proposal ("RFP") process used by the Company when developing the Phase IX DSM Programs. He testified that proposed Phase IX DSM Program concepts were developed through the EE stakeholder process, as required by § 56-596.2 of the Code.⁹³ He explained that such concepts were incorporated into a RFP issued in May 2020.⁹⁴ In addition, Dominion Energy sought additional feedback from DSM stakeholders regarding the structure of the HB 2789 (Solar Component) Program by hosting a focused meeting in October 2020.⁹⁵ He also explained that the Company used the RFP responses to define measures for the Programs, and estimate penetrations, costs, and load reductions used in the cost/benefit evaluations.⁹⁶ Furthermore, he testified Dominion Energy intends to

⁸³ *Id.* at 5-6.

⁸⁴ *Id.* at 6.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.* at 7.

⁸⁹ *Id.*

⁹⁰ *Id.* at 8-13.

⁹¹ *Id.* at 13-14.

⁹² *Id.* at 14-15.

⁹³ *Id.* at 15.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.* at 16.

implement the Phase IX DSM Programs through fully outsourced implementation vendors.⁹⁷ Mr. Hubbard anticipated the Phase IX DSM Programs will be available to customers in January 2022.⁹⁸

Mr. Hubbard testified that Dominion Energy will oversee its implementation vendors by requiring detailed reporting to ensure each Program meets its desired performance levels and participation targets.⁹⁹ He confirmed that the Company has a quality control process utilizing internal automated queries and personnel to track and flag measures installed in its programs.¹⁰⁰ He further explained that all rebates are approved through the Company's Business Intelligence system and are checked by DNV, the Company's EM&V vendor, on a monthly basis.¹⁰¹ Moreover, he highlighted the Company's field and quality assurance process, which is used to verify the quality of work on a percentage of each vendor's projects.¹⁰² In addition, Mr. Hubbard provided an update on the Company's controls and procedures surrounding the rebate approval process and discussed Dominion Energy's plans for future improvements, including the use of an electronic rebate tracking system for numerous Programs in DSM Phases V, VI, VII, and VIII.¹⁰³

Mr. Hubbard confirmed that the Company provided information with the Petition outlining the fixed versus variable costs associated with each implementation vendor contract.¹⁰⁴ He emphasized that incentive costs should be treated as variable costs.¹⁰⁵ In addition, he explained that the Program sheets for the proposed Phase IX Programs include cost information presented on an incentive versus non-incentive basis, as requested by stakeholders.¹⁰⁶

Mr. Hubbard affirmed the Company's proposed Programs promote appliances and equipment that fall within the scope of the federal standards contained in the National Appliance Energy Conservation Act ("NAECA").¹⁰⁷ In addition, he advised that pursuant to Rule 40(1)(e) of the Promotional Allowance Rules, the Company believes the proposed Phase IX DSM Programs will not have a significant effect on the sales levels of alternative energy suppliers.¹⁰⁸ He also asserted that the proposed Phase IX DSM Programs: (i) conform to Rule 40(1)(c) of the Promotional Allowance Rules by minimizing the potential for placing private businesses at an undue competitive disadvantage through the RFP process; and (ii) utilize defined customer classes in compliance with Rule 40(1)(b) of the Promotional Allowance Rules.¹⁰⁹

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.* at 17.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 18.

¹⁰² *Id.* at 18-19.

¹⁰³ *Id.* at 19-20.

¹⁰⁴ *Id.* at 20.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 21.

¹⁰⁹ *Id.* at 21-22.

Mr. Hubbard outlined the Company's plans to make customers aware of the proposed Phase IX DSM Programs including: (1) providing information on its website, social media outlets, bill inserts, direct mail, and through in-store promotions; (2) heightening customer awareness through customer newsletters, news releases, outreach seminars, trade shows, and speaking engagements; (3) relying upon its experience gained from its pilots and previously-approved DSM Programs; and (4) relying upon various stakeholders, such as industry groups and counties.¹¹⁰

During cross-examination by Staff, Mr. Hubbard confirmed his understanding that refrigerator replacement and floor insulation measures were included in the budget for the proposed Phase IX Residential IAQ Program (despite their omission from the Company's Filing Schedule 46).¹¹¹ Furthermore, he agreed (subject to check) that the \$40 million proposed budget for the Phase IX Residential IAQ Program was the highest budget for any of the proposed Phase IX residential EE Programs and that the Residential IAQ Program offers the lowest amount of cumulative energy savings out of all of the proposed Phase IX Programs.¹¹² In addition, he acknowledged that detailed Program designs and cost information are not always provided to the stakeholder group.¹¹³

Mr. Hall discussed: (i) the Company's integrated resource planning ("IRP") process and the process for screening and selecting DSM Programs; (ii) Dominion Energy's screening criteria for evaluating DSM Programs; (iii) the cost/benefit test results for the proposed Phase IX DSM Programs; and (iv) updated cost/benefit test results for the ongoing DSM Programs.¹¹⁴

Mr. Hall confirmed the Company's IRP process considers capacity and energy savings from DSM Programs.¹¹⁵ He advised that Dominion Energy's DSM Programs are analyzed using the Strategist model based on the opportunity to eliminate, defer or alter the need for future supply-side resources and market purchases.¹¹⁶ As for the Company's load forecasts, he explained the Company's peak and energy forecasts are developed by PJM Interconnection, LLC ("PJM").¹¹⁷ In addition, he testified that the assumptions used in this proceeding are consistent with those used in the PLEXOS model for the Company's 2020 IRP Update Filing.¹¹⁸ Mr. Hall described the Strategist model as a modeling and resource optimization tool that considers economics and constraints of operating existing facilities and Programs, and adding new supply or implementing additional DSM Programs.¹¹⁹ He listed inputs to the Strategist model supplied

¹¹⁰ *Id.* at 22-23.

¹¹¹ *Tr.* at 89.

¹¹² *Tr.* at 91-93.

¹¹³ *Tr.* at 93.

¹¹⁴ Ex. 5 and 5ES, at 2. Although the Company submitted public and extraordinarily sensitive versions of Mr. Hall's direct testimony, only the public information is summarized herein.

¹¹⁴ 5 VAC 5-20-110.

¹¹⁵ Ex. 5 and 5ES, at 3.

¹¹⁶ *Id.* at 4.

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 5; *Commonwealth of Virginia, ex rel. State Corporation Commission In re: Virginia Electric and Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUR-2020-00035 ("2020 IRP Update Filing").

¹¹⁹ Ex. 5 and 5ES, at 6.

by ICF International, Inc. ("ICF"), including: (i) Dominion Zone ("DOM Zone") monthly on-peak and off-peak electricity prices; (ii) DOM Zone annual capacity prices; (iii) projections for sulfur dioxide and nitrogen oxides emissions and estimates for mercury and carbon dioxide; (iv) fuel prices; and (v) renewable energy credits.¹²⁰ Mr. Hall also indicated the cost/benefit runs were developed using Plan B from the Company's 2020 IRP Update Filing.¹²¹

Mr. Hall outlined the four cost/benefit tests used to evaluate DSM Programs:

The Participant Cost Test ("PCT") measures quantifiable benefits and cost to Program participants.¹²² The PCT is calculated as follows:¹²³

$$\text{PCT} = \frac{\text{Participant Bill Reduction} + \text{Incentives}}{\text{Participant's Cost}}$$

A result of 1.0 or higher indicates the Program passes the PCT.¹²⁴

Utility Cost Test ("UCT"), compares the cost for the utility to the costs that should be avoided.¹²⁵ The UCT is calculated as follows:¹²⁶

$$\text{UCT} = \frac{\text{Avoided Capacity Benefit} + \text{Avoided Energy Benefit}}{\text{Utility Administrative Cost} + \text{Utility Incentive Payments}}$$

A result of 1.0 or higher indicates the Program passes the UCT.¹²⁷

The Total Resource Cost ("TRC") "compares the total costs and benefits to the utility and participants, relative to the costs to the utility and participants."¹²⁸ The TRC test is calculated as follows:¹²⁹

$$\text{TRC} = \frac{\text{Avoided Capacity Benefit} + \text{Avoided Energy Benefit}}{\text{Utility Administrative Cost} + \text{Customer Costs}}$$

A result of 1.0 or higher indicates the Program passes the TRC test.¹³⁰

The Ratepayer Impact Measure ("RIM") determines the impact on utility customers that do not participate in the Program.¹³¹ The RIM test is calculated as follows:¹³²

¹²⁰ *Id.* at 6-7.

¹²¹ *Id.* at 8.

¹²² *Id.* at 9.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.* at 9-10.

¹³⁰ *Id.* at 10.

¹³¹ *Id.*

¹³² *Id.*

$$\text{RIM} = \frac{\text{Avoided Capacity Benefit} + \text{Avoided Energy Benefit}}{\text{Utility Administrative Cost} + \text{Utility Incentive Payments} + \text{Utility Lost Revenues}}$$

A result of 1.0 or higher indicates the Program passes the RIM test.¹³³

Mr. Hall discussed § 56-576 of the Code, which provides that a Program is in the public interest if it passes not less than three of the four tests outlined above, or if it provides measurable and verifiable energy savings to low-income or elderly customers.¹³⁴ He also maintained that the absolute value of the net present value ("NPV") of the test may be important when evaluating the RIM test.¹³⁵ He confirmed the Company will continue to provide the NPV of benefits and costs for each of the four cost/benefit tests.¹³⁶ He also suggested the NPV provides a better understanding of the magnitude of the impacts of a DSM Program.¹³⁷

Mr. Hall testified that the Company evaluated the proposed Phase IX Programs on both an individual and portfolio basis as required by the Cost Benefit/Rules.¹³⁸ The results of such analysis were included in attachments to his prefiled direct testimony.¹³⁹ In addition, he confirmed that Dominion Energy ran sensitivity analyses in accordance with Rule 30(7) of the Commission's Cost/Benefit Rules¹⁴⁰ and as required by the *2017 DSM Order*.¹⁴¹ Mr. Hall also contended the results of these analyses comply with the Commission's Promotional Allowances Rule 10.¹⁴²

According to Mr. Hall, the Company completed an updated cost/benefit analysis of Dominion Energy's existing and ongoing DSM Programs, with the exception of the Phase VII and Phase VIII Programs that were only recently approved or launched.¹⁴³ In addition, he confirmed the Company included revised cost/benefit tests incorporating actual Virginia energy savings as reported in the Company's May 15, 2020 EM&V Report.¹⁴⁴ He acknowledged the cost/benefit test scores for the Company's Phase I AC Cycling Program "are very low,"¹⁴⁵ and provided the following explanation for such result:

This is because the Company projects cumulative participation in the Program decreasing each year between 2020-2022 and then going to zero following that

¹³³ *Id.*

¹³⁴ *Id.* at 12.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.* at 12-13.

¹³⁸ *Id.* at 15.

¹³⁹ *Id.* at Schedules 4 and 5. A comparable analysis of the Company's proposed HB 2789 (Solar Component) Program is included in Schedules 4 and 5 to Mr. Hall's supplemental direct testimony. Ex. 6 and 6ES, at Schedules 4 and 5.

¹⁴⁰ 20 VAC 5-304-30 (7).

¹⁴¹ Ex. 5 and 5ES, at 15-16.

¹⁴² *Id.*

¹⁴³ *Id.* at 17 and Schedule 7.

¹⁴⁴ *Id.* at 15-16.

¹⁴⁵ *Id.* at 16-17.

period. As a result, there are no benefits generated from this demand response ["DR"] program from 2023 forward. The benefits of this Program, which are only during the summer season by design, were also impacted by the use of PJM's load forecast, which projected the Company to be winter peaking.¹⁴⁶

Following the Commission's issuance of the Preliminary Order, Mr. Hall also provided supplemental testimony addressing the Cost/Benefit Rules as they relate to Dominion Energy's proposed HB 2789 (Solar Component) Program.¹⁴⁷ According to Mr. Hall, Dominion Energy initially requested a waiver of the Cost/Benefit Rules relative to the HB 2789 (Solar Component) Program because it does not constitute an EE or peak shaving Program as those terms are defined by the Code.¹⁴⁸ He explained further:

[T]he HB 2789 (Solar Component) Program is a [P]rogram that installs solar panels on the residences of low income, elderly, veteran, and disabled participants who have also participated in the HB 2789 (Heating and Cooling/Health and Safety) Program or installed heating and cooling measures through other Company DSM Programs. The solar panels are supply-side resources that generate power – energy and capacity. They are not resources that save or provide energy and capacity benefits through those savings like other demand-side resources.¹⁴⁹

He maintained that, given HB 2789 (Solar Component) Program's unique characteristics as a part of Dominion Energy's DSM filing, the Company was required to make a number of "simplifying assumptions" regarding designs and forced modeling directives within Strategist to complete the cost/benefit analysis directed by the Commission.¹⁵⁰ Specifically, the Company used Program design assumptions provided by the Program designer with energy and capacity characteristics over an "8760 Load Shape" by a typical customer-owned solar installation based upon the premise that the energy and capacity generated over the 8760 Load Shape is the amount of generation not used from the Company's system.¹⁵¹ Dominion Energy based its associated inputs on interval data from its Rate Schedule SP.¹⁵² According to Mr. Hall, use of this approach forced the Strategist model to treat the HB 2789 (Solar Component) Program as a DSM Program, rather than generation.¹⁵³

Mr. Hall testified that the Company analyzed the HB 2789 (Solar Component) Program on an individual and portfolio basis.¹⁵⁴ Furthermore, he explained that the HB 2789 (Solar

¹⁴⁶ *Id.*

¹⁴⁷ Ex. 6 and 6ES. Although the Company submitted public and extraordinarily sensitive versions of Mr. Hall's supplemental direct testimony, only the public information is summarized herein.

¹⁴⁸ *Id.* at 3.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.* at 4.

¹⁵¹ *Id.* at 5.

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.* at 6, Schedules 4 and 5.

Component) Program has the lowest cost/benefit score of the proposed Phase IX Programs.¹⁵⁵ Under the circumstances, Strategist picked the HB 2789 (Solar Component) Program last and its inclusion in the associated portfolio ranking had no impact on the scores of the other Phase IX Programs.¹⁵⁶

Mr. Bates provided system cost projections for the Rate Year, actual system costs for the 2019 calendar year, and a schedule of cost projections associated with the proposed Phase IX Programs.¹⁵⁷

Mr. Bates testified the projected costs for the Phase IX DSM Programs are primarily based on vendor bids and common costs related to the implementation of the Programs.¹⁵⁸ He explained design costs for each Phase are accumulated in a general bucket before the issuance of an RFP, and are spread to the successful Programs.¹⁵⁹ In addition, he confirmed after the RFP is issued, design costs are tracked by Program.¹⁶⁰ Furthermore, he represented that common costs are allocated proportionally across all Program direct cost expenses.¹⁶¹

Mr. Bates asserted the Company's EC Department controls costs related to DSM Programs in a variety of ways including:

- (1) plan-to-actual analysis and reporting; (2) review of costs related specific Program groupings compared to the cost limitations set forth in the [2009 DSM Order¹⁶²]; (3) Program penetration/sales tracking; (4) EC Program Manager oversight of Program/vendor activity; and (5) EC Management oversight of both Programs and Program Managers.¹⁶³

He also confirmed Dominion Energy complied with: (i) the Commission's 2013 DSM Order,¹⁶⁴ which required the tracking of design costs by Program to the extent possible; and (ii) the Commission's 2016 DSM Order, which directed the Company to conduct an internal audit of the controls surrounding incentive and rebate payments.¹⁶⁵

¹⁵⁵ *Id.* at 6.

¹⁵⁶ *Id.*

¹⁵⁷ Ex. 7 and 7ES, at 1-2. Although the Company submitted public and extraordinarily sensitive versions of Mr. Bates' direct testimony, only the public information is summarized herein.

¹⁵⁸ *Id.* at 4.

¹⁵⁹ *Id.* at 5.

¹⁶⁰ *Id.*

¹⁶¹ *Id.* at 5-6.

¹⁶² *Application of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2009-00081, 2010 S.C.C. Ann. Rep. 362 ("2009 DSM Order").

¹⁶³ Ex. 7 and 7ES, at 6.

¹⁶⁴ *Petition of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2013-00072, 2014 S.C.C. Ann. Rep. 289 ("2013 DSM Order").

¹⁶⁵ Ex. 7 and 7ES, at 6.

Mr. Bates testified that the Company seeks cost recovery (including costs associated with participant/penetration growth) in connection with Dominion Energy's Phases II, III, IV, V, VI, VII, VIII, and IX DSM Programs.¹⁶⁶ He also explained the Company's development process for determining DSM Program System penetrations including the use of data obtained during the RFP process.¹⁶⁷ Furthermore, he explained that the True-up of Dominion Energy's 2019 DSM costs (shown on his Schedule 3) was focused on the Virginia and North Carolina jurisdictions and the common costs from the DSM Phase II, III, IV, V, VI and VII Programs were determined based upon a ratio of the costs associated with such Programs compared to the total costs of all DSM Phases during the same period.¹⁶⁸

Mr. Bates confirmed there are no projected costs for the EV Pilot Program for the Rate Year.¹⁶⁹ He also explained that through December 31, 2019, the Company incurred approximately 93% of the \$825,000 cost limit approved for the EV Pilot Program.¹⁷⁰

Mr. Bates testified the Company proposed a five-year cap of \$162 million for the Phase IX DSM Programs.¹⁷¹ Furthermore, he provided the requested cost cap information for each Phase IX DSM Program.¹⁷² Consistent with the GTSA, he also calculated the total amount of spending proposed by the Company on energy EE DSM Programs since July 1, 2018, to be approximately \$476 million of the required \$870 million.¹⁷³ In addition, consistent with the GTSA and the VCEA, Mr. Bates calculated the total amount of spending proposed by Dominion Energy on EE Programs targeting low-income individuals since July 1, 2018, as \$53 million of the required 15% of the \$870 million (or \$130.5 million), excluding projected loss revenues.¹⁷⁴

Ms. Lecky developed the revenue requirements for Riders C1A, C2A, and C3A, together with the revenue requirement for the Company's new proposed Rider C4A, including projected costs for the Rate Year.¹⁷⁵ Among other things, she explained that for Riders C1A, C2A and C3A, Dominion Energy seeks recovery of the True-up of actual costs and revenues for the period of January 1, 2019, through December 31, 2019, associated with the EV Pilot Program and the following previously approved Programs:¹⁷⁶

- Phase II – Non-residential DG Program;
- Phase III – Non-residential Window Film Program;
- Phase III – Non-residential Lighting Systems and Controls Program;
- Phase III – Non-residential Heating & Cooling Efficiency Program;
- Phase IV – Residential Income and Age Qualifying Home Improvement Program;

¹⁶⁶ *Id.* at 7.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.* at 8.

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² *Id.* at 8-9.

¹⁷³ *Id.* at 9.

¹⁷⁴ *Id.* at 9-10.

¹⁷⁵ Ex. 8 and 8ES, at 1-2. Although the Company submitted public and extraordinarily sensitive versions of Ms. Lecky's direct testimony, only the public information is summarized herein.

¹⁷⁶ *Id.* at 2-4.

- Phase V – Non-residential Small Business Improvement Program;
- Phase VI – Non-residential Prescriptive Program;
- Phase VII – Residential Appliance Recycling;
- Phase VII – Residential Home Energy Assessment;
- Phase VII – Residential Efficient Products Marketplace;
- Phase VII – Non-residential Heating and Cooling Efficiency;
- Phase VII – Non-residential Lighting Systems & Controls;
- Phase VII – Non-residential Window Film;
- Phase VII – Non-residential Office;
- Phase VII – Non-residential Small Manufacturing;
- Phase VIII – Residential Electric Vehicle (EE and DR);
- Phase VIII – Electric Vehicle (Peak Shaving);
- Phase VIII – Residential Energy Efficiency Kits;
- Phase VIII – Residential Home Retrofit;
- Phase VIII – Residential Manufactured Housing;
- Phase VIII – Residential New Construction;
- Phase VIII – Residential/Non-residential Multifamily;
- Phase VIII – Non-residential Midstream Energy Efficiency Products;
- Phase VIII – Non-residential New Construction;
- Phase VIII – Small Business Improvement Enhanced;
- Phase VIII – HB 2789 (Heating and Cooling/Health and Safety);
- Phase VIII – Residential Smart Thermostat (DR);
- Phase VIII – Residential Smart Thermostat (EE); and
- Phase VIII – Residential Customer Engagement.

For Riders C1A, C2A, and C3A, Ms. Lecky confirmed the Company is requesting projected Rate Year costs associated with the Phase II, IV, V, and VI Programs listed above, in addition to Rate Year financing costs on True-up deferred balances associated with Phase VII Programs.¹⁷⁷ Furthermore, in Rider C4A, she testified that Dominion Energy seeks the recovery of projected Rate Year costs associated with its Phase VII and VIII Programs (noted above) and the following Phase IX Programs:¹⁷⁸

- Residential IAQ;
- Residential Water Savings (EE);
- Residential Water Savings (DR);
- Residential Smart Home;
- Residential Virtual Audit;
- Non-residential Agricultural Energy Efficiency;
- Non-residential Building Automation;
- Non-residential Building Optimization;
- Non-residential Engagement;
- Non-residential Enhanced Prescriptive; and

¹⁷⁷ *Id.* at 3-4.

¹⁷⁸ *Id.* at 4-5.

- HB 2789 (Solar Component) Program.

Ms. Lecky confirmed she used a 9.2% ROE for both the Rate Year Projected Revenue Requirement and the True-up Adjustments for prior periods.¹⁷⁹ She also advised 9.2% was used for margins on O&M expenses – with the exception of the proposed Phase IX HB 2789 (Solar Component) Program.¹⁸⁰ As explained by Ms. Lecky, Dominion Energy proposes the HB 2789 (Solar Component) Program pursuant to Subsection A 5 g, rather than Subsection A 5 c of § 56-585.1 of the Code.¹⁸¹ It was her understanding Subsection A 5 g of § 56-585.1 of the Code does not authorize a margin on O&M expenses.¹⁸²

Ms. Lecky explained that the revenue requirement sought consists of two components – the Rate Year Projected Revenue Requirement and the Monthly True-up Adjustment.¹⁸³ She explained that the Rate Year Projected Revenue Requirement includes operating expenses projected for the Rate Year and the Monthly True-up Adjustment compares the actual costs for the calendar year 2019 True-up period to the actual revenues collected during the same time period.¹⁸⁴ She confirmed the initially proposed total revenue requirement of \$78,119,830 represented a net increase of approximately \$11,076,861 for Riders C1A, C2A, C3A and C4A.¹⁸⁵ She further explained that such amount represented an overall increase of approximately \$18,434,412, collectively.¹⁸⁶

Mr. Hewett outlined the Company's proposed revenue requirements for Riders C1A, C2A, C3A and C4A; and the allocation of costs to the Virginia jurisdiction and to the customer classes.¹⁸⁷ He affirmed the approach to determine cost responsibility for the Virginia jurisdiction is the same approach approved by the Commission in its *July 30, 2020 Order*.¹⁸⁸ Furthermore, he explained that Dominion Energy's allocation approach: (i) directly assigns Program costs to the jurisdiction based on Program participation; and (ii) allocates indirect costs to the jurisdiction based on the jurisdiction's Program costs compared to total Program costs for the system.¹⁸⁹

Mr. Hewett also explained the Company's use of the Average & Excess ("A&E") Factor 1 to allocate Virginia jurisdictional costs to Virginia jurisdictional customer classes, consistent with the Commission's *July 30, 2020 Order*.¹⁹⁰ More specifically, Mr. Hewett noted the revenue requirement for Rider C1A is allocated to all customer classes based on A&E Factor 1.¹⁹¹ He stated the revenue requirement for Rider C2A is allocated to all customer classes based on A&E

¹⁷⁹ *Id.* at 5-6.

¹⁸⁰ *Id.* at 6.

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.* at 7.

¹⁸⁴ *Id.*

¹⁸⁵ *Id.* at 13.

¹⁸⁶ *Id.*

¹⁸⁷ Ex. 9 and 9ES, at 2. Although the Company submitted public and extraordinarily sensitive versions of Mr. Hewitt's direct testimony, only the public information is summarized herein.

¹⁸⁸ *Id.* at 3.

¹⁸⁹ *Id.*

¹⁹⁰ *Id.* at 3-4.

¹⁹¹ *Id.* at 3.

Factor 1 adjusted to exclude exempt and opt-out customers prior to the GTSA taking effect on July 1, 2018.¹⁹² In addition, he confirmed that pursuant to the GTSA, Rider C3A is allocated based on A&E Factor 1 to all customer classes, excluding the LGS Customers as that term was previously defined under the GTSA.¹⁹³ In contrast, Dominion Energy intends to allocate Rider C4A to all customer classes based on A&E Factor 1 with the exclusion of LGS Customers (as that term is now defined under the VCEA) who opt out under the VCEA which took effect July 1, 2020.¹⁹⁴

Mr. Hewett explained Dominion Energy's methodologies for directly assigning and allocating costs, stating in part:

The Company has analyzed its DSM Program costs by phase and ascribed them to a particular customer or group of customers, where possible. If the cost cannot be assigned directly, an allocation is used to assign cost responsibility by apportioning costs among two or more groups of customers based upon each group's relative share using an appropriate cost-defining characteristic.¹⁹⁵

Furthermore, he explained that Dominion Energy assigns peak-shaving and EE program costs to all customers in the participating Virginia jurisdictional customers' class.¹⁹⁶ The same approach is used to determine the actual Virginia jurisdictional Program costs included in the Company's True-up Adjustment.¹⁹⁷ Mr. Hewett also outlined the process for translating a jurisdiction's level of participation in a DSM Program to an assigned portion of a Program's revenue requirement for the Rate Year.¹⁹⁸

Mr. Hewett next confirmed that the Company employed the same approach in this case as was used in the 2019 DSM Update to assign common costs not directly attributable to specific DSM Programs but necessary for the design, implementation, and operation of such Programs.¹⁹⁹ Among other things, he explained that system common costs allocated to Phase I Programs are not recovered through Riders C1A, C2A, C3A, or C4A based on the Commission's *2011 Biennial Review Order*.²⁰⁰ He affirmed for Phases II through VIII, allocated system common costs are recovered through Riders C1A, C2A, C3A and C4A.²⁰¹ For the EV Pilot Program, Mr. Hewett stated:

¹⁹² *Id.* at 3-4.

¹⁹³ *Id.* at 4.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.* at 6.

¹⁹⁶ *Id.* at 7.

¹⁹⁷ *Id.* at 8.

¹⁹⁸ *Id.*

¹⁹⁹ *Id.* at 9.

²⁰⁰ *Id.* at 9-10; *Application of Virginia Electric and Power Company, For a 2011 biennial review of rates, terms, and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2011-00027, 2011 S.C.C. Ann. Rep. 456.

²⁰¹ Ex. 9 and 9ES, at 9-10.

in the calculations . . . where factors are developed to allocate [c]ommon costs or [c]ommon cost revenue requirements to the Virginia [j]urisdiction or to Riders C1A, C2A, C3A, and C4A neither Program costs nor Program cost revenue requirements associated with the EV Pilot Program are included in either the numerator or denominator used to calculate any allocation factor.²⁰²

He also described his process for allocating responsibility for rate base financing costs.²⁰³

Mr. Hewett identified one difference in the allocation of jurisdictional costs to customer classes from the 2019 DSM Update to the present case relating to the Company's allocation of jurisdictional costs to customer classes.²⁰⁴ Such difference reflects Dominion Energy's application of the "behind the meter" adjustment supported by the Company in its 2018 DSM Update to the True-up of calendar year 2019 costs.²⁰⁵ Mr. Hewett also described and defended Dominion Energy's allocation of jurisdictional costs to customer classes, among other things, explaining as follows: (i) for Rider C1A, jurisdictional costs are allocated to customer classes based on the A&E Factor 1 (a "production demand factor")²⁰⁶ without any adjustment for exempt customers; (ii) for Rider C2A, jurisdictional costs are allocated to customer classes based on the A&E Factor 1 adjusted for the exempt and opt-out customers; (iii) for Rider C3A, jurisdictional costs are allocated to customer classes based on the A&E Factor 1 adjusted for customers exempted under the GTSA; and (iv) for Rider C4A, jurisdictional costs are allocated to customer classes based on the A&E Factor 1 adjusted for customers who opt out under the VCEA.²⁰⁷ As further explained by Mr. Hewitt, no opt out adjustment was required at the time of the Petition's filing because no LGS Customer had opted out.²⁰⁸

Ms. Catron supported the Company's calculation of rates for the proposed revised Riders C1A, C2A, C3A and the proposed Rider C4A.²⁰⁹ Among other things, she calculated that the Commission's approval of Dominion Energy's Riders C1A, C2A, C3A and C4A, as initially proposed, would decrease a residential customer's monthly bill by \$0.10, based on monthly usage of 1,000 kilowatt hours ("kWh").²¹⁰ She also explained that Dominion Energy's request, for billing purposes, of a rate effective date for usage on or after the first day of the month which is at least fifteen (15) days following the date of any Commission order approving Riders C1A, C2A, C3A, and C4A.²¹¹ In addition, she explained that the Company used the same methodology for calculating rates in this case with one change due to a prior adjustment

²⁰² *Id.* at 10.

²⁰³ *Id.*

²⁰⁴ *Id.* at 11.

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ *Id.* at 11-14.

²⁰⁸ *Id.* at 12.

²⁰⁹ Ex. 10, at 1-2.

²¹⁰ *Id.* at 7. As explained in more detail below, such amount changed based upon the rebuttal revenue requirement supported by the Commission.

²¹¹ *Id.* at 2.

regarding the load and kWh usage of federal customers.²¹² According to Ms. Catron, such adjustment is no longer required because the Company's forecast now accounts for federal customer load and kWh usage.²¹³

Ms. Feng testified that Dominion Energy plans to comply with the Commission's EM&V Rules and VCEA requirements related to EM&V activities and provided the EM&V plans for the Phase IX DSM Programs.²¹⁴ She also represented that the EM&V plans produced by DNV for the Company's proposed Phase IX DSM Programs align with the testimony provided by DNV in the Commission's *EM&V Determination Case*.²¹⁵

Environmental Respondent's Testimony

The Environmental Respondent submitted the testimony of **Jim Grevatt**, managing consultant at Energy Futures Group.

Mr. Grevatt addressed the Company's proposed Phase IX EE Programs and illustrated how, in his assessment, the newly proposed Programs together with those previously approved by the Commission are likely to contribute to Dominion Energy's ability to meet its EE savings obligations under the VCEA.²¹⁶ He offered the following primary observations and conclusions regarding the Company's proposal:²¹⁷

1. [Dominion Energy's] Phase IX DSM [Petition] proposes to add eleven new [P]rograms to its portfolio, each of which could potentially provide benefits to customers.
2. In this [Petition] the Company persists with the fragmented, piecemeal approach to [P]rograms that was evident in both the Phase VII and Phase VIII [Petitions], despite repeated recommendations to produce a streamlined, coordinated approach to obtaining DSM savings. If the Commission approves the Phase IX [Petition], it will add eleven [P]rograms to the 29 that have already been approved.
3. Based on evidence I could piece together from the information in this [Petition], as well as information in its 2020 [IRP Update Filing], I conclude it is highly unlikely that Dominion [Energy] will be able to meet its statutory savings obligations without drastically refocusing and increasing its efforts. Even

²¹² *Id.* at 3.

²¹³ *Id.*

²¹⁴ Ex. 11, at 2 and Appendix B.

²¹⁵ *Id.* at 3; *Commonwealth of Virginia, ex. rel., State Corp. Commission, Ex Parte: In the matter of baseline determination, methods for evaluation, measurement, and verification of existing demand-side management programs, and the consideration of a standardized presentation of summary data for Virginia Electric and Power Company*, Case No. PUR-2020-00156, Order Initiating Proceeding (Aug. 28, 2020) ("*EM&V Determination Case*").

²¹⁶ Ex. 12, at 3.

²¹⁷ *Id.* at 4-5.

if the Phase IX [P]rograms are approved, the Company appears to have a significant shortfall beginning in 2023, one that continues to grow dramatically through 2025.

4. While the Company has hired a consultant to work on a strategic plan for its [EE] [P]rograms, the Company does not expect to have this plan finalized until the end of this year. As admitted by the Company in discovery, at best the Company may be able to incorporate preliminary aspects of the plan in its next Phase X filing. The full import of the plan, however, such as recommendations about how the Company can expand existing [P]rograms and reconfigure its piecemeal approach, will not be incorporated until late 2022 in its Phase XI filing. In all likelihood, these [P]rograms will not even be implemented until 2024. Thus, the Company's existing timeline for its strategic plan appears unlikely to help it meet the savings requirements in 2023 and beyond.
5. Despite the apparent challenge of meeting the VCEA savings targets, the Company has provided no evidence in this proceeding that it is on track for these important energy savings requirements, and instead appears content to treat the requirements as aspirational goals.

Furthermore, Mr. Grevatt offered the following recommendations.²¹⁸

1. Conditionally approve the 11 new [P]rograms proposed in Dominion [Energy]'s proposed Phase IX [Petition], with final approval contingent on a supplemental filing to be filed within 120 days. Such filing shall:
 - a. Propose [P]rogram savings and budgets for the five-year period beginning January 1, 2022[,] sufficient to ensure compliance with statutory savings and investment obligations. While the Company might be expected to adjust these proposals as necessary in future filings, the Commission should require this information to ensure the Company has—and maintains—a reasonable path towards compliance;
 - b. Propose a plan and framework for consolidating, streamlining, and marketing the public-facing aspects of its approved and proposed [P]rograms to facilitate participation at the levels required to achieve the VCEA targets; and

²¹⁸ *Id.* at 5-6.

- c. Provide a detailed project management plan and risk management strategy that demonstrates the Company has identified and planned for the deployment of the resources required to implement the revised programs.
2. Establish a procedural process and schedule for the supplemental Phase IX [Petition] that will allow Commission Staff and respondents time to review, propound discovery, and provide analysis and testimony to the Commission regarding the supplemental [Petition].
3. Direct the Company to periodically update the information listed in Recommendation #1 and provide such information in subsequent DSM [Petitions].
4. Approve the Company's request to extend the DSM Phase II Non-residential Distributed Generation (DG) Program for an additional two years, and to extend eligibility and cost recovery for all [LGS] [C]ustomers for the applicable [N]on-residential DSM [P]rograms.

In support of his observations, conclusions and recommendations, Mr. Grevatt provided an overview of the policy considerations codified in the GTSA and VCEA and a critique of the EE savings estimates proffered by the Company.²¹⁹ Among other things, he maintained that Dominion Energy failed to clarify what is meant by the term "Total (Cumulative 2022-2026) Energy" when providing estimated savings from its proposed Phase IX Programs.²²⁰ In addition, he disagreed with the Company's interpretation of the 15% minimum budgetary requirement in § 56-596.2 of the Code associated with Programs designed for the benefit of low-income, elderly, disabled customers and veterans and believed "15 percent is a perpetual requirement [that] would be calculated based on whatever the Company proposes, whether that number is \$870 million or some other number needed to meet the VCEA savings requirements."²²¹ He also expressed concern regarding Dominion Energy's failure to adopt a streamlined portfolio approach and believed complexities associated with the Company's portfolio design and Program requirements are likely to discourage customer participation.²²² However, such concerns were not sufficient to cause him to recommend that the Phase IX Programs not be approved.²²³

According to Mr. Grevatt, he recommended approval of the DSM Phase II Non-residential DG Program's extension because it can provide benefits to the Company and no

²¹⁹ *Id.* at 7-12.

²²⁰ *Id.* at 10.

²²¹ *Id.* at 12.

²²² *Id.* at 14-16.

²²³ *Id.* at 16.

additional funds in connection with such Program are sought.²²⁴ He also agreed with Dominion Energy that it is reasonable for LGS Customers to be included in the eligible customer pool for such Program given the VCEA's modified treatment of LGS Customers replacing "an automatic exemption to an opt-out process."²²⁵

Mr. Grevatt next addressed Dominion Energy's strategic plan. Although he believed the development of a strategic plan to be positive, he expressed concerns regarding the timing of the plan's finalization and resulting delays in the plan's use for the development of DSM Programs.²²⁶ He also viewed comments by the Company regarding the achievability of meeting statutory requirements to be troubling.²²⁷ In Mr. Grevatt's assessment, the investment and energy savings requirements of the GTSA and VCEA are not "aspirational" and, instead, constitute "direct mandates from the General Assembly."²²⁸

Regarding Dominion Energy's failure to produce evidence about its ability to timely achieve VCEA savings obligations, Mr. Grevatt noted the Company's acknowledgement in discovery that it has not analyzed how its proposed DSM Programs and the currently existing DSM Programs will contribute to VCEA savings requirements.²²⁹ He maintained that Dominion Energy's failure to project its DSM accomplishments is inconsistent with the approach of other utilities subject to regulatory requirements.²³⁰ In addition, he did not believe the type of analysis for making the associated projections would be particularly challenging.²³¹

From his own analysis of savings projections included in the Company's 2020 IRP Update Filing, Mr. Grevatt concluded Dominion Energy could achieve the 2022 VCEA target while falling short of targets in subsequent years because of the expiration of previously approved measures and the associated reduction in savings.²³² Moreover, he analyzed the impact of the proposed Phase IX DSM Programs and ascertained that they provide only a fraction of the savings the Company will need to meet the 2023, 2024, and 2025 targets.²³³ Similarly, he described the increasing level of savings that would need to be achieved through future proposed DSM Programs to meet VCEA requirements, among other things, stating:

I calculate that, in addition to the 150,000 MWh Phase IX [P]rogram savings, [the Company] would need to acquire over 268,000 MWh in new incremental savings in 2023 in order to just meet the 2023 target. To put 268,000 MWh in context, this would mean that the Phase X [P]rograms—the batch of [P]rograms that would be implemented beginning 2023—would need to achieve about 3.5 times

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ *Id.* at 17-20.

²²⁷ *Id.* at 17-18.

²²⁸ *Id.* at 18.

²²⁹ *Id.* at 21.

²³⁰ *Id.*

²³¹ *Id.* at 22.

²³² *Id.* at 22-29.

²³³ *Id.* at 29.

the amount of savings in their first year as compared to the first year of savings the Company expects to achieve with Phase IX [P]rograms.²³⁴

Given his concerns regarding Dominion Energy's ability to meet future targets, Mr. Grevatt opined that the Phase IX proposals "are far too limited."²³⁵ Such concerns also supported his conclusion that the Commission should require the Company to submit a supplemental Phase IX proposal.²³⁶

When offering surrebuttal testimony, Mr. Grevatt discussed the difference between gross and net savings associated with the Company's DSM Programs and explained that net savings are the savings actually caused by a Program (and, as such, would not have occurred absent the Program's incentive).²³⁷ He believed Virginia's statutory requirements (as demonstrated by the inclusion of the word "achieved" in the Code) relate to net savings rather than gross.²³⁸ He also opined that the difference between gross and net savings could be substantial.²³⁹

Regarding Dominion Energy's plan to address anticipated energy savings shortfalls, Mr. Grevatt did not find Mr. Frost's assurances within his rebuttal testimony to be sufficiently specific.²⁴⁰ He indicated he was pleased with the Company's engagement of a consultant to assist with its long-term plan but remained concerned regarding timing.²⁴¹ In addition, although he confirmed his support for the Commission's approval of the Phase IX DSM Programs, Mr. Grevatt maintained that Dominion Energy's completion of its strategic plan for meeting statutory energy savings targets (including risk management and implementation components) should be accelerated and submitted in connection with its Phase X DSM proposals.²⁴²

When questioned by Staff, Mr. Grevatt clarified that his concerns regarding Dominion Energy's statutory compliance related to savings targets/EE goals, GTSA's spending targets, and the 15% requirement for IAQ.²⁴³ In addition, he supported Staff's suggestion for the inclusion of a coupon measure (and direct rural mailing) in the IAQ Program to cover the cost of a six pack of lightbulbs as a way of maximizing the benefits of the Program.²⁴⁴

During cross-examination by the Company, Mr. Grevatt explained the concept of "spillover" as being the opposite of "free ridership" and as occurring when someone is influenced by a DSM Program but does not elect to collect an associated rebate.²⁴⁵ According to

²³⁴ *Id.* at 31.

²³⁵ *Id.* at 33.

²³⁶ *Id.* at 34-36.

²³⁷ Tr. at 105-07.

²³⁸ *Id.* at 107-08.

²³⁹ *Id.* at 109.

²⁴⁰ *Id.* at 109-10.

²⁴¹ *Id.* at 110-11.

²⁴² *Id.* at 112-13.

²⁴³ *Id.* at 114.

²⁴⁴ *Id.* at 114-15.

²⁴⁵ *Id.* at 117-18.

Mr. Grevatt, spillover results in net savings associated with a Program.²⁴⁶ He also acknowledged that some states consider gross savings when evaluating DSM Programs.²⁴⁷

Regarding his initial recommendation for a supplemental filing, Mr. Grevatt confirmed the Environmental Respondent is now amenable to the Company providing the planning information he recommends in its next filing.²⁴⁸ Although he acknowledged there may be a tight timeframe associated with providing such information (including the assessment of Dominion Energy's overall portfolio, a plan for streamlining and eliminating redundancy, a plan for improving communications with customers and improving participation, and a plan for meeting statutory targets), he asserted nothing prevented Dominion Energy from previously doing the work necessary for such information and maintained that the work must be done.²⁴⁹ He also emphasized that his recommendation includes a requirement for the Company to provide detailed project management and risk management strategies in the long-term plan it submits to the Commission.²⁵⁰ In addition, he confirmed that his recommended risk management strategy would include the Company's plans for addressing things that could go wrong with Program implementation.²⁵¹ Mr. Grevatt did not believe the challenges of working remotely over the past 16 months should have hindered the Company in the development of its long-term DSM plan.²⁵² Furthermore, he clarified that his recommendation for the conditional approval of the Phase IX Programs contemplates the reassessment and adjustment of the Phase IX Programs going forward.²⁵³

On redirect, Mr. Grevatt recognized the Company's planning information provided in the stakeholder process and emphasized that he believes Dominion Energy should be required to provide more detailed information with its next DSM filing than previously provided – including a description of the specific scope of work being performed by its consultant.²⁵⁴

Staff Testimony

Staff submitted the testimony of **Justin M. Morgan**, a manager in the Commission's Division of Public Utility Accounting and Finance ("UAF"); and **Andrew T. Boehnlein**, a senior utilities analyst with the Commission's Division of Public Utility Regulation ("PUR").

Mr. Morgan addressed: (i) the impact of the VCEA on the Company's O&M expense related margins; (ii) the Company's cost caps related to proposed and existing DSM Programs; (iii) Staff's proposed revenue requirement; (iv) Staff's audit of program costs for 2019; (v) the

²⁴⁶ *Id.* at 118-20.

²⁴⁷ *Id.* at 120-22.

²⁴⁸ *Id.* at 123-25, 129.

²⁴⁹ *Id.* at 123-25.

²⁵⁰ *Id.* at 126.

²⁵¹ *Id.* at 128.

²⁵² *Id.* at 129-30.

²⁵³ *Id.* at 131-32.

²⁵⁴ *Id.* at 134-35.

Company's internal audit of its DSM Programs; and (vi) the Company's progress towards the EE goals of the GTSA.²⁵⁵ He also offered the following recommendations:²⁵⁶

1. Approval of a total revenue requirement of \$73,244,113, composed of \$78,211,888 for Rider C4A, (\$7,904,620) for Rider C3A, \$1,775,979 for Rider C2A, and \$1,160,866 for Rider C1A;
2. Approval of [c]ost [c]aps based solely on the [P]rogram costs for each approved [P]rogram;
3. That the Company provide, in its next filing, a chart that summarizes the following for all active programs through the end of the [T]rue-up period: (1) total incentives; (2) incentive cost per participant; (3) non-incentive cost per participant; (4) margin cost per participant; (5) total cost per participant; and (6) the percentage of margin and non-incentive costs in relation to total costs; [and]
4. That the Company continue to monitor its progress towards the \$870 million goal of [the GTSA], and to provide updates to this amount in its annual [EE] filings with the Commission.

According to Mr. Morgan, the VCEA changed the way a margin is awarded for operating expenses associated with EE and pilot Programs and set forth specific EE savings requirements impacting the revenue requirement through ROE incentives.²⁵⁷ He explained that based upon the VCEA statute, Staff excluded margins for EE Programs beginning January 1, 2022, and believed any margin awarded pursuant to the VCEA should be applied as part of Dominion Energy's next RAC True-up proceeding, subject to the Commission's review of Dominion Energy's achievement of its annual energy standards.²⁵⁸ In contrast to Staff, Mr. Morgan represented that Dominion Energy did not propose to exclude margins from the revenue requirement beginning January 1, 2022.²⁵⁹ Furthermore, he explained that Staff incorporated a margin based upon the Company's approved ROE at the relevant time associated with True-up and Projected Cost Recovery Factor ("Projected Factor") costs expected to be incurred before January 1, 2022.²⁶⁰ Staff's exclusion of operating margins after January 1, 2022, resulted in a \$4,875,717 reduction to the Company's proposed Projected Factor revenue requirement.²⁶¹

²⁵⁵ Ex. 16 and 16ES, at 6. Although Staff submitted public and extraordinarily sensitive versions of Mr. Morgan's direct testimony, only the public information is summarized herein.

²⁵⁶ *Id.*

²⁵⁷ *Id.* at 7.

²⁵⁸ *Id.* at 8.

²⁵⁹ *Id.*

²⁶⁰ *Id.* at 9.

²⁶¹ *Id.* at 10.

Mr. Morgan provided a table summarizing the Company's proposed cost caps for its proposed Programs and noted that Dominion Energy's proposed five-year cost cap for the Phase IX in the aggregate is slightly less than \$162 million.²⁶² Furthermore, based upon language in the VCEA, Mr. Morgan believed "[c]ost [c]aps [should be] based solely on the Program costs (excluding margins) for the proposed Phase IX Programs."²⁶³ He also provided a table setting forth a comparative analysis of actual Program costs to the Commission-established cost caps for active Programs.²⁶⁴

Mr. Morgan acknowledged that the Company's proposed revenue requirement is based upon the capital structure and cost of capital (including an ROE of 9.2%) approved in its recent Rider E proceeding.²⁶⁵ He testified that the use of such capital structure does not produce a material difference between Staff's and Dominion Energy's revenue requirements.²⁶⁶ He also summarized the differences between Staff's and Dominion Energy's recommended revenue requirements (as initially proposed by Dominion Energy), as follows:²⁶⁷

	<u>Staff</u>	<u>Company</u>	<u>Difference</u>
Projected Factor	\$84,487,114	\$89,362,831	\$(4,875,717)
True-up Factor	<u>\$(11,243,001)</u>	<u>\$(11,243,001)</u>	<u>\$</u>
Total	<u>\$73,244,113</u>	<u>\$78,119,830</u>	<u>\$(4,875,717)</u>

Furthermore, he explained that the revenue requirement will change if the Commission does not approve all of the Programs proposed by the Company.²⁶⁸

Mr. Morgan explained that Staff's audit of Dominion Energy's proposal consisted of two layers – the first including a review of documentation relating to Program specific and common costs included in the 2019 True-up and the second constituting a review of the incentive payments supporting a portion of the costs included in the first layer of review.²⁶⁹ He testified that for the audit of the Program specific and common costs included in the 2019 True-up, Staff: (i) verified the documentation supporting the recorded entry; (ii) verified costs were correctly classified; and (iii) verified the amounts were correctly calculated.²⁷⁰ For the audit of incentive payments, Mr. Morgan affirmed Staff: (i) verified the incentive payment; (ii) verified the work

²⁶² *Id.* at 10-11.

²⁶³ *Id.* at 12.

²⁶⁴ *Id.* at 13 (the information in such table was designated as extraordinarily sensitive).

²⁶⁵ *Id.* at 14 (citing *Petition of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider E, for the recovery of costs incurred to comply with state and federal environmental regulations pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUR-2020-00003, Final Order (Sept. 4, 2020)).

²⁶⁶ *Id.*

²⁶⁷ *Id.* at 15. Mr. Morgan again noted that the difference between Staff's and the Company's recommended revenue requirements relates to Staff's exclusion of margins in the cost caps beginning January 1, 2022. *Id.*

²⁶⁸ *Id.* at 16.

²⁶⁹ *Id.*

²⁷⁰ *Id.* at 16-17.

performed and equipment installed met the Program rules; and (iii) verified that the incentive amounts were correctly calculated.²⁷¹

According to Mr. Morgan, Staff did not discover any material discrepancies in its audit.²⁷² Nevertheless, he was concerned that 46% of the total costs of all of the Programs audited in the 2019 True-up were related to non-incentive costs and recommended that the Company be required to provide more detailed cost per participant information in its next filing to assist with future Staff audits, and “help the Commission ensure that the Company’s Programs are being operated with sufficient price protections should anticipated Program participation not materialize.”²⁷³

Regarding the requirements of the GTSA, Mr. Morgan stated with the proposals in this proceeding, Dominion Energy will have proposed approximately \$475.7 million of the required \$870 million.²⁷⁴

Mr. Boehnlein, (i) summarized updates to the Code relative to the Petition, (ii) described the proposed Phase IX Programs, (iii) discussed Dominion Energy’s Residential IAQ Program, (iv) examined the Company’s proposed jurisdictional and class revenue apportionment, and (v) addressed Dominion Energy’s proposed rate design for Riders C1A, C2A, C3A, and C4A.²⁷⁵

Mr. Boehnlein began his direct testimony by identifying the financial and operational incentives for achieving EE goals provided in the VCEA.²⁷⁶ In addition, he explained that the VCEA requires the Commission to report annually to the General Assembly on actual energy savings achieved through DSM Programs approved pursuant to the VCEA.²⁷⁷ He emphasized that the level of EM&V used to evaluate DSM Programs will impact the Commission’s consideration of such savings and could impact the Commission’s approval of future requests for the construction of carbon-emitting generating units.²⁷⁸ Furthermore, he maintained that the environmental justice concerns (addressed in § 2.2-234 *et seq.* of the Code (“VEJA”)) should be considered when reviewing the Petition.²⁷⁹

Mr. Boehnlein described how the Company’s EE measures impact the Renewable Portfolio (“RPS”) requirements in § 56-585.5 of the Code by reducing Dominion Energy’s total energy sales.²⁸⁰ He also noted that the Percentage of Income Payment Program (“PIPP”) established in § 56-585.6 of the Code will be funded by a collection of a universal service fee

²⁷¹ *Id.* at 18.

²⁷² *Id.*

²⁷³ *Id.* at 19.

²⁷⁴ *Id.* at 20. Mr. Morgan also provided an extraordinarily sensitive table breaking down the Program-specific cost components of the \$475.7 million total. *Id.* at 21.

²⁷⁵ Ex. 13, at 5.

²⁷⁶ *Id.* at 5-7.

²⁷⁷ *Id.* at 7.

²⁷⁸ *Id.* at 12-19. Furthermore, Mr. Boehnlein explained that the Commission is considering the appropriate level of rigor and accuracy for EM&V in another pending case. *Id.* at 11-12.

²⁷⁹ *Id.* at 19.

²⁸⁰ *Id.* at 10, 17-18, 20, 93.

from all customers, and such fee may be mitigated by effective EE Programs.²⁸¹ In addition, he described the VCEA's exemption provision for LGS Customers and described the VCEA's EE goals.²⁸² Among other things, he explained that § 56-596.2 of the Code establishes the following energy savings targets to be achieved by the Company.²⁸³

Year	Savings Target %	MWh Savings Target
2022	1.25%	862,300 MWh
2023	2.50%	1,724,600 MWh
2024	3.75%	2,586,900 MWh
2025	5.00%	3,449,200 MWh

As a summary of his conclusions regarding the impacts of recent legislative changes, Mr. Boehnlein stated:²⁸⁴

The General Assembly has established precise energy savings targets for the Company. The General Assembly has tied the Company's profit margins on DSM [P]rogram operating costs to those targets. It has required the Commission to report on both the feasibility of meeting those targets as well as the extent to which the Company has done so. The RPS requirements have added a layer of complexity regarding the Company's energy sales, which may be directly affected by [EE] [P]rograms. The PIPP program will be funded by collection of a universal service fee from all customers, and that fee may be mitigated by effective [EE] [P]rograms. It is Staff's opinion that the General Assembly has placed additional emphasis on the importance of [EE] in the Commonwealth's overall energy plan, and rigorous EM&V is one way to be responsive to the new requirements included in the VCEA. As noted earlier, the required level of rigor and accuracy for EM&V is being considered in [the *EM&V Determination Case*] currently pending before the Commission.

After discussing the Company's summary of its proposed Phase IX DSM Programs, Mr. Boehnlein testified that Staff evaluated the cost-effectiveness of such Programs in accordance with § 56-576 of the Code.²⁸⁵ Among other things, he acknowledged that the Company's cost/benefit analysis shows all of the proposed Phase IX Programs pass at least three of the four cost/benefit tests, except for the Residential IAQ Program and the HB 2789 (Solar Component) Program.²⁸⁶ He also indicated that Dominion Energy provided updated cost/benefit tables associated with its existing DSM Programs (except for the Phase VIII Programs which were not yet fully operational when the Petition was filed).²⁸⁷ Furthermore, he confirmed that

²⁸¹ *Id.* at 10, 18-19, 20.

²⁸² *Id.* at 7-9.

²⁸³ *Id.* at 10.

²⁸⁴ *Id.* at 20.

²⁸⁵ Ex. 13, at 20-25.

²⁸⁶ *Id.* at 27.

²⁸⁷ *Id.*

the Company performed the sensitivity analysis required by the Commission's Cost/Benefit Rules.²⁸⁸

Regarding his evaluation of the Company's proposed Phase IX Programs, Mr. Boehnlein first addressed the HB 2789 (Solar Component) Program. He disagreed with the Company's contention that its inclusion of the HB 2789 (Solar Component) Program within Phase IX was statutorily required.²⁸⁹ He noted that although "the Code specifically calls for the costs associated with implementing § 56-596.2:1 A to be counted towards the goal of proposing \$870 million [] in DSM [P]rogram spending as defined in Code § 56-596.2, ... the Solar Component is *not* to be counted towards that goal."²⁹⁰ Under the circumstances, Staff concluded the Petition may not be the appropriate "venue" for seeking costs associated with such Program.²⁹¹ He also believed it is unclear who would own the renewable energy credits ("RECs") associated with rooftop solar facilities included in the HB 2789 (Solar Component) Program and explained that, although Staff did not take a position of whether the Company could use solar RECs generated by the Program for RPS compliance, "Staff believe[d] the issues of retiring the RECs for RPS compliance purposes, the ownership of the RECs, and whether a payment for retiring the RECs is required should be considered in the Company's next annual RPS filing."²⁹²

Regarding the design of the HB 2789 (Solar Component) Program, Mr. Boehnlein agreed with the Company's proposal to cover the full cost of installation on the customer's premise.²⁹³ In addition, he recommended that the Commission consider whether Dominion Energy should require associated installers to warranty 100% of all installed components for the life of the system.²⁹⁴ As explained by Mr. Boehnlein, "[i]t does not seem practical to provide an upfront benefit to these customers to reduce their bill impact, if there are significant long-term costs for which the customer would be responsible."²⁹⁵

Regarding the Residential Water Saving Program (EE and DR), Mr. Boehnlein noted that the EE portion of this Program (including efficient water heating pump and energy efficient pool pump measures) does not pass the RIM test and raised benefit and environmental justice concerns associated with the limited application of the pool pump measure.²⁹⁶ In addition, he noted the DR portion of this Program does not pass the PCT test and suggested participating customers may eventually decide to leave the Program because it is designed to allow Dominion Energy to cycle off of associated equipment when customers will most likely want to use it.²⁹⁷

²⁸⁸ *Id.* at 28.

²⁸⁹ *Id.* at 29-30, 94.

²⁹⁰ *Id.* at 30 (emphasis in original).

²⁹¹ *Id.*

²⁹² *Id.* at 32.

²⁹³ *Id.*

²⁹⁴ *Id.* at 34.

²⁹⁵ *Id.*

²⁹⁶ *Id.* at 34-35, 94.

²⁹⁷ *Id.* at 35-36.

Mr. Boehnlein also discussed the Company's prior experience with administering a hot water heater related Program (Rider J).²⁹⁸

Regarding the Residential Virtual Audit Program, Mr. Boehnlein explained that this Program contemplates a customer completing an audit on their own and receiving suggested measures and improvements.²⁹⁹ He noted this Program is similar to three formerly approved DSM Programs (Phase VII Residential Home Energy Assessment Program, Phase VIII Residential Manufactured Homes Program, and Phase VIII Residential Home Retrofit Program), and suggested there is no need for such Programs to be separated.³⁰⁰ Moreover, he described technical considerations (relating to the use of a central data base) that would, in his assessment, facilitate the consolidation of the Company's various self-auditing Programs. He also identified two benefits from consolidating such Programs – the reduction of implementation and administrative costs and the increased efficiency of the consolidated Program.³⁰¹ Furthermore, he believed diversity in DSM offerings is important, explaining: “[t]o the extent that the Company offers four substantially similar [P]rograms, the Company may succeed in meeting the spending goals of the GTSA [but] [i]t is unlikely ... that the Company will be able to meet the goals of the VCEA this way.”³⁰²

Regarding the overall design characteristics of the Phase IX Programs, Mr. Boehnlein suggested Dominion Energy should consider ways to extend its marketing strategies to reach as many potential participants as possible and “drive participation.”³⁰³ Furthermore, he explained that Staff did not oppose Dominion Energy's requests to extend the Non-residential DG Program and expand the participation requests for various Non-residential Programs consistent with the VCEA (and statutory changes relative to exemptions and opt outs).³⁰⁴

Mr. Boehnlein ultimately clarified that Staff does not oppose the Phase IX Programs as filed.³⁰⁵ However, he found it appropriate to provide an extensive description and critique of the Company's proposed Residential IAQ Program included in Phase IX.³⁰⁶ Among other things, he noted that the proposed Residential IAQ Program constitutes a replacement of a previously approved Program.³⁰⁷ He also highlighted such Program's apparent exclusion (through its design) of customers not living in multi-family housing and believed such exclusion may raise environmental justice concerns.³⁰⁸ In addition, he explained how, in his assessment, the design of the Residential IAQ Program inflates the cost of the measures included within it (thereby lowering associated energy savings), and opined that the minimum energy savings achieved

²⁹⁸ *Id.* at 36-37.

²⁹⁹ *Id.* at 37.

³⁰⁰ *Id.* at 37-41, 94.

³⁰¹ *Id.* at 41-42.

³⁰² *Id.* at 42.

³⁰³ *Id.* at 42-45, 94.

³⁰⁴ *Id.* at 45-46.

³⁰⁵ *Id.* at 46.

³⁰⁶ *Id.* at 46-71.

³⁰⁷ *Id.* at 46.

³⁰⁸ *Id.* at 53-57, 68-71, 95.

through the Residential IAQ Program are inconsistent with the Code (and, in particular, recent statutory changes supporting the provision of more benefits to low income, elderly, and disabled customers).³⁰⁹

Regarding EM&V, Mr. Boehnlein testified that he reviewed the EM&V plans provided with the Company's proposed Programs.³¹⁰ Among other things, he questioned the Company's continued use of deemed values for baselines, deemed savings calculations, and estimates of savings from EE measures and Programs as an appropriate means of demonstrating DSM measures as the proximate cause of reduced energy usage.³¹¹ Similarly, he noted not all of Dominion Energy's proposed EM&V plans offer an evaluated savings approach and maintained such approach is more rigorous than the tracked savings approach included in the EM&V plans accompanying some of the proposed Programs.³¹² In addition, he emphasized that although the Company requires applicants to provide EM&V information in the RFP process, EM&V efforts are ultimately conducted through a third-party evaluator, DNV, and not by Dominion Energy.³¹³ Mr. Boehnlein explained that the Company contends the precise EM&V methodology used to evaluate the proposed Program is not determined until after the Program is approved because of associated costs.³¹⁴ Given the requirements of the VCEA, however, Mr. Boehnlein believed the Company should engage with DNV beginning with the RFP process and going forward to "ensure Dominion [Energy] is selecting [P]rograms that will necessarily lend themselves to rigorous measurement and verification strategies."³¹⁵

Moreover, Mr. Boehnlein discussed DNV's EM&V calculations for previously approved Programs, suggested improved overall DSM Program designs could simplify EM&V, and described potential difficulties arising from the Commission's delayed receipt of useful EM&V information associated with the Phase IX Programs.³¹⁶ In sum, he offered the following conclusions regarding the development of EM&V plans for Dominion Energy's DSM Programs.³¹⁷

It is possible to develop rigorous EM&V plans in conjunction with [P]rogram design. It is not a waste of Company resources or time to do so. The Commission may find it necessary for the Company to do so because the Commission is now legally obligated to report to the Governor and the General Assembly as to the success, or failure, of the Company's [EE] efforts.

³⁰⁹ *Id.* at 60-61, 71, 95.

³¹⁰ *Id.* at 72.

³¹¹ *Id.* at 72-73.

³¹² *Id.* at 73, 81. Later in his testimony, Mr. Boehnlein opined that a deemed savings approach is not responsive to prior Commission Orders requiring more rigorous EM&V and suggested the Commission may find the evaluated savings approach to be more rigorous. *Id.* at 87.

³¹³ *Id.* at 74-76.

³¹⁴ *Id.* at 76-77.

³¹⁵ *Id.* at 81. *See also id.* at 81-82.

³¹⁶ *Id.* at 82-89.

³¹⁷ *Id.* at 89.

Mr. Boehnlein found the Company's cost allocation methodology to be consistent with the methodology approved by the Commission in its *July 30, 2020 Order*.³¹⁸ He did not raise any issues concerning the allocation of costs or the calculation of the proposed Riders C1A, C2A, C3A, and C4A.³¹⁹ He stated further:³²⁰

Should the Commission approve a revenue requirement that differs from the Company's requested revenue requirement of approximately \$78.1 million in this case, Staff recommends that the Riders C1A, C2A, C3A and C4A surcharges should be adjusted proportionately.

Regarding Dominion Energy's future DSM programing, Mr. Boehnlein again opined that compliance with the VCEA necessitates the Company's maximization of participation and marketing efforts, selection of Programs that spend money efficiently to maximize energy savings, and provision of rigorous EM&V.³²¹ He also maintained it is currently unclear whether Dominion Energy will meet the requirements of the VCEA.³²² His concern was heightened by Mr. Grevatt's analysis (which was conducted using the Company's EM&V data, the rigor of which was questioned by Staff, showing the Company's inability to meet VCEA requirements).³²³

When providing surrebuttal testimony, Mr. Boehnlein reiterated Staff's position that Dominion Energy's proposed IAQ Program has implications relative to the newly enacted VEJA and believed IAQ Program design deficiencies could preclude an equal opportunity for low-income, elderly and disabled customers to participate.³²⁴ He also noted that the Company failed to update a discovery response related to the HB 2789 (Solar Component) Program regarding participant exposure to additional costs. However, he was pleased that the Company has now agreed in principal (as reflected in Mr. Frost's rebuttal testimony) that low-income, elderly, and disabled customers should be shielded from future costs associated with such Program.³²⁵ He continued to support Staff's REC ownership position and expressed concern regarding Dominion Energy's inability to provide participant cost information in discovery responses.³²⁶

Regarding the pool pump component of the Company's DSM proposal, Mr. Boehnlein acknowledged during the hearing that a participant may not notice a DR event but maintained that such event would likely lessen the EE benefits of the Program.³²⁷ He continued to express concern about low-income customers paying for the pool pumps of more affluent customers and

³¹⁸ *Id.*

³¹⁹ *Id.* at 89-90.

³²⁰ *Id.* at 91.

³²¹ *Id.*

³²² *Id.* at 92.

³²³ *Id.*

³²⁴ Tr. at 138-39.

³²⁵ *Id.* at 139-40.

³²⁶ *Id.* at 141.

³²⁷ *Id.* at 142.

he questioned whether the pool pump measure is necessary to induce more affluent customers to buy EE pool pumps.³²⁸

Regarding his criticism of Dominion Energy's Phase IX IAQ Program, Mr. Boehnlein suggested that the Company's reference to other low-income customer offerings fails to address Staff's point that design flaws in the Phase IX IAQ Program result in its failure to adequately address the needs of customers living outside of densely urban areas.³²⁹ He also differentiated administrative eligibility from the actual ability to receive access to a Program.³³⁰ Moreover, although he denied contending that the only intent of the weatherization service provider ("WSP") network members is to maximize revenues, he continued to assert that the Company's incentive structure encourages the installation of EE measures in multi-family buildings.³³¹ Furthermore, he clarified that Staff does not recommend Commission denial of the IAQ Program but, instead, recommends that the Commission require the provision of detailed cost support for IAQ Programs in future filings.³³² In addition, he expressed confusion regarding Mr. Hubbard's reference (in rebuttal testimony) to health and safety measures within the IAQ Program based upon documentation filed with the Petition.³³³ He also continued to express concern regarding the cost of the IAQ Program (\$40 million) in relation to its benefits (saving of 67 kWh or \$7.39 annually) and believed the benefits of the Program will be absorbed by its designer and implementor before reaching customers.³³⁴

Regarding EM&V, Mr. Boehnlein continued to maintain that deemed savings are not particularly useful for determining energy savings in actual practice.³³⁵ He also asserted that the Commission will have only one year of comparatively rigorous EM&V data from the fifth year of the Phase IX DSM Programs (2026) before evaluating Dominion Energy's compliance with statutory savings standards.³³⁶ In addition, he highlighted language in a prior Commission order indicating that the deems savings approach does not provide a sufficient EM&V estimate and supported Staff's recommendations in the *EM&V Determination Case* when countering Company witness Feng's suggestion that Dominion Energy should not expend resources on improving the accuracy of EM&V measures.³³⁷

Mr. Boehnlein highlighted Staff's overall concerns regarding missed opportunities in the Phase IX portfolio relating to participant access, a lack of urgency in meeting VCEA goals

³²⁸ *Id.* at 143.

³²⁹ *Id.* at 144.

³³⁰ *Id.* at 145-46. *See also* Ex. 14 (Company's Interrogatory Response 3-25 wherein the Company represented that all of the customers in its service territory are covered by the WSP network).

³³¹ Tr. at 147-48.

³³² *Id.* at 149.

³³³ *Id.* at 149-50. *See also* *Id.* at 169.

³³⁴ *Id.* at 151-52.

³³⁵ *Id.* at 153.

³³⁶ *Id.* at 154-55. *See also* Ex. 15 (modification of Company's EM&V timeline chart to emphasize short amount of time Commission will have access to more rigorous savings estimate data when evaluating Company's statutory EE standard achievements).

³³⁷ Tr. at 156-59.

demonstrated by limited participant access, and the potential for leaving energy savings unrealized by excluding portions of the Company's service territory.³³⁸

When questioned by the Environmental Respondent, Mr. Boehnlein confirmed his understanding of § 56-585.1 A 5 c of the Code regarding the Commission's possible denial of a margin if Dominion Energy fails to meet energy targets associated with approved Programs.³³⁹ Furthermore, although he acknowledged that it may be a good idea for the Company to be required to propose sufficient Programs to meet its annual savings requirements in future DSM filings, he declined to offer an opinion on whether Staff would propose such a requirement.³⁴⁰

When questioned by Consumer Counsel, Mr. Boehnlein confirmed Staff's understanding of the average annual energy savings associated with Dominion Energy's proposed Phase IX IAQ Program and its savings and cost as compared to the Phase VII IAQ Program (the Phase IX IAQ Program producing less savings than its Phase VII counterpart at double the cost).³⁴¹ Furthermore, he clarified Staff's belief that customer savings from the Phase VII IAQ Program have been inadequate.³⁴² He also expanded upon his explanation of how Dominion Energy's failure to maximize savings from its DSM Programs could require non-low income ratepayers to pay higher PIPP charges.³⁴³ In addition, regarding the Company's proposed pool pump measure, Mr. Boehnlein affirmed Staff expressed a comparable concerns regarding a similar proposal made by Appalachian Power Company ("APCo") in another Commission case.³⁴⁴

During cross-examination by Dominion Energy, Mr. Boehnlein acknowledged Staff does not have a specific recommendation relative to the pool pump measure but, instead, merely highlighted environmental justice concerns for the Commission's consideration.³⁴⁵ He also acknowledged the Company's proposed Residential Water Savings Program appears to meet the statutory public interest standard based on applicable cost/benefit tests.³⁴⁶ Furthermore, he agreed he has not provided any work product or analysis supporting the denial of the Residential Water Savings Program (other than his testimony).³⁴⁷ Similarly, he indicated that Staff has not conducted a cost/benefit analysis of the Residential Water Savings Program without the pool pump component.³⁴⁸ He was ambivalent regarding whether stakeholder support of the pool pump measure should carry any weight because, in his assessment, the proposal is a Company measure rather than a stakeholder measure.³⁴⁹

³³⁸ *Id.* at 159-60.

³³⁹ *Id.* at 163-64.

³⁴⁰ *Id.* at 165-66.

³⁴¹ *Id.* at 168.

³⁴² *Id.* at 170.

³⁴³ *Id.* at 171-72.

³⁴⁴ *Id.* at 174.

³⁴⁵ *Id.* at 175-76.

³⁴⁶ *Id.* at 177-80.

³⁴⁷ *Id.* at 181.

³⁴⁸ *Id.* at 182.

³⁴⁹ *Id.* at 183-84.

Regarding Dominion Energy's proposed Residential Virtual Audit Program, Mr. Boehnlein clarified that Staff believes the Company's Home Energy Assessment, Manufactured Homes, Home Retrofit, and Residential Home Audit Programs should be consolidated.³⁵⁰ Nevertheless, he acknowledged that the proposed Residential Virtual Audit Program passes three of the four cost/benefit tests as an individual Program.³⁵¹

Regarding health and safety, Mr. Boehnlein further explained Staff's confusion regarding the inclusion of health and safety expenditures (a 15% spending cap) in the Phase IX IAQ Program by noting that he thought references to such expense in Dominion Energy's testimony were mistakenly transposed from a prior filing (relating to the health and safety components of HB 2789).³⁵² His belief that the Company's prefiled testimony included a mistake was supported by the failure of Dominion Energy to include specific health and safety measures with Program design information that it provided to the Commission.³⁵³ He acknowledged that Staff did not have a specific recommendation regarding health and safety expenditures in the Phase IX IAQ Program but maintained it was unusual for the Company not to include a specific explanation regarding how such money would be spent.³⁵⁴

Mr. Boehnlein acknowledged that the Commission previously approved a mid-stream point of sale discount measure for light bulbs with the Company's Phase VII DSM proposal despite Staff's concerns about the measure (the substance of which were again raised in this case).³⁵⁵ Furthermore, in response to statutory provisions relating to the stakeholder process, Mr. Boehnlein contrasted the discovery process available in formal Commission cases as a preferable mechanism for Staff to fully investigate Dominion Energy's DSM proposals and emphasized that the Company is not bound by the recommendations Staff could make in the stakeholder process.³⁵⁶

When asked about EM&V, Mr. Boehnlein confirmed the Code's definition of "measured and verified" includes engineer-based estimates of energy and demand savings and agreed the deemed saving approach constitutes such a methodology.³⁵⁷ However, he maintained that the statutory definition contemplates additional verification mechanisms.³⁵⁸ He also highlighted the Commission's prior concerns regarding the level of the Company's EM&V analysis.³⁵⁹ Furthermore, although he maintained that the Commission could consider the proper level of EM&V in this case, Mr. Boehnlein believed it reasonable to expect the Commission's conclusions in the *EM&V Determination Case* would apply to the Programs at issue in the Petition.³⁶⁰

³⁵⁰ *Id.* at 184.

³⁵¹ *Id.* at 185-86.

³⁵² *Id.* at 187-88.

³⁵³ *Id.*

³⁵⁴ *Id.* at 190.

³⁵⁵ *Id.* at 191-92.

³⁵⁶ *Id.* at 193-99.

³⁵⁷ *Id.* at 199-200.

³⁵⁸ *Id.* at 200-01.

³⁵⁹ *Id.* at 201-02.

³⁶⁰ *Id.* at 203.

On redirect examination, Mr. Boehnlein confirmed the Code's recognition of Commission authority to determine the appropriate EM&V mechanisms for DSM Programs.³⁶¹ He also confirmed the Company's cost/benefit analysis of the Phase IX DSM Programs is not based on actual data.³⁶² Furthermore, he opined that a Commission decision regarding the public interest could be based on policy conclusions rather than Staff work product.³⁶³ In addition, he agreed that Staff could not make a recommendation regarding measures that were not clearly identified in the Petition (such as health and safety measures).³⁶⁴ Regarding the stakeholder process, Mr. Boehnlein again emphasized the differences between such process and a formal Commission case and noted that it is the Commission, and not Staff, that determines the final outcome of annual DSM proceedings.³⁶⁵ Finally, regarding his criticisms of the Company's DSM Programs, Mr. Boehnlein affirmed that Staff does not recommend denial of Programs or measures but, instead, makes recommendations regarding how such Programs and measures could be made better.³⁶⁶

Dominion Energy Rebuttal Testimony

Dominion Energy submitted the rebuttal testimony of **Mr. Frost; Mr. Hubbard; Ms. Lecky; Mr. Hewett; Ms. Catron; and Ms. Feng.**

Mr. Frost responded to Environmental Respondent and Staff testimony regarding: (i) the Company's progress towards meeting the metrics of the GTSA and VCEA; (ii) the HB 2789 (Solar Component) Program; (iii) environmental justice; and (iv) EM&V.³⁶⁷ He noted the general support in this proceeding for the Company's proposed Phase IX DSM Programs, the extension of the Non-residential DG Program; and the expanded eligibility for previously approved Non-residential DSM Programs.³⁶⁸ Furthermore, he advised that the Company would "continue to work with the parties here, Staff, and most importantly, our stakeholders, to ensure we are on the right path to achieve the applicable public policy goals in furtherance of the Commonwealth's overall clean energy and decarbonization goals."³⁶⁹

Mr. Frost agreed with Staff and the Environmental Respondent that Dominion Energy did not include current or projected energy savings totals as a percentage of 2019 jurisdictional sales in the Petition.³⁷⁰ He maintained that the inclusion of such amounts with the Petition would be "premature" because the VCEA's savings target does not take effect until 2022 and a determination of whether the Company has met the target will not occur until 2023.³⁷¹

³⁶¹ *Id.* at 204.

³⁶² *Id.* at 207.

³⁶³ *Id.* at 209.

³⁶⁴ *Id.* at 210-11.

³⁶⁵ *Id.* at 211-13.

³⁶⁶ *Id.* at 214-15.

³⁶⁷ Ex. 17, at 2.

³⁶⁸ *Id.* at 3.

³⁶⁹ *Id.*

³⁷⁰ *Id.* at 4.

³⁷¹ *Id.*

Nevertheless, on rebuttal he provided the Company's current forecast of EE savings in recognition of stakeholder interest.³⁷² He also represented that Dominion Energy is committed to providing comparable information as part of its annual DSM filings going forward.³⁷³

Mr. Frost responded to Environmental Respondent witness Grevatt's opinion that it is highly unlikely Dominion Energy will be able to meet its statutory obligations without significantly modifying its current efforts.³⁷⁴ He agreed with Mr. Grevatt's assessment of a savings shortfall.³⁷⁵ He also explained that although the Company projects it will meet the VCEA savings targets in 2022, more will need to be done to meet the targets in 2023.³⁷⁶ Moreover, he represented that Dominion Energy is developing a long-term plan to address the shortfall with stakeholders.³⁷⁷ In addition, he outlined the expected components of such long-term plan.³⁷⁸ He stated further: "[t]he Company will work closely with stakeholders to assist the Company in reaching the VCEA savings targets the General Assembly has set, and we will work collaboratively to operationalize their input into [P]rograms and other actions."³⁷⁹

In addition to its development of a long-term plan, Mr. Frost described the Company's efforts to increase customer "uptake"/participation in DSM Programs.³⁸⁰ Among other things, he testified that Dominion Energy plans to issue an RFP for supplemental marketing services.³⁸¹ He also indicated that the Company was amenable to increasing administrative costs associated with increased marketing if Staff believes such expenditures are warranted.³⁸²

Mr. Frost asserted that Dominion Energy's "vision for the future of DSM" is consistent with Mr. Grevatt's recommendation for a streamlined DSM design improving savings performance.³⁸³ To achieve such goal, he believed the customer experience must be improved by making participation "intuitive and easy."³⁸⁴ Furthermore, he testified that the Company is committed to developing consolidation and marketing alternatives associated with the Residential Virtual Audit, Home-Energy Assessment, Manufactured Homes, and Home Retrofit Programs proposed and intends to propose such options in future Commission cases.³⁸⁵ Similarly, he indicated that the Company would review its other DSM Programs to determine if consolidation alternatives may be appropriate.³⁸⁶

³⁷² *Id.* at 4-7. Mr. Frost also provided rebuttal tables presenting energy EM&V historical and projected savings data. *Id.* at 5-6.

³⁷³ *Id.* at 7-8.

³⁷⁴ *Id.* at 8-9.

³⁷⁵ *Id.* at 8.

³⁷⁶ *Id.*

³⁷⁷ *Id.*

³⁷⁸ *Id.* at 9.

³⁷⁹ *Id.*

³⁸⁰ *Id.* at 10.

³⁸¹ *Id.*

³⁸² *Id.* at 11.

³⁸³ *Id.*

³⁸⁴ *Id.*

³⁸⁵ *Id.* at 12.

³⁸⁶ *Id.*

Mr. Frost urged the Commission to reject Mr. Grevatt's recommendation that the Company be required to submit a supplemental filing in 120 days proposing new savings and budgets for the Phase IX Programs.³⁸⁷ According to Mr. Frost, adoption of such recommendation is inappropriate because: (1) it would be disruptive to, and increase the cost of, the RFP process used in securing necessary DSM vendors; (2) Dominion Energy has committed to moving toward a more streamlined approach; and (3) the submission of a supplemental filing is impractical and unnecessary given the deadline for a final order in this case (early September 2021) and the Company's expected filing of a new DSM Update in December 2021.³⁸⁸

Regarding the proposed HB 2789 (Solar Component) Program, Mr. Frost updated Dominion Energy's steps to facilitate the implementation of such Program subsequent to filing the Petition (including the issuance of a Request for Qualifications and Information).³⁸⁹ He disagreed with Staff's suggestion that the HB 2789 (Solar Component) Program should not have been included with the DSM Update and, instead, believed the General Assembly intended it to link the HB 2789 heating and cooling/health and safety initiative previously approved by the Commission with the HB 2789 (Solar Component) Program.³⁹⁰ He also believed the inclusion of the HB 2789 (Solar Component) Program within the DSM Update will facilitate Staff audits.³⁹¹ In his assessment, the General Assembly's addition of subsection g to § 56-585.1 A 5 of the Code further supported the Company's inclusion of the HB 2789 (Solar Component) Program in the DSM Update.³⁹²

Mr. Frost disagreed with Staff's conclusion that the ownership of RECs generated by the HB 2789 (Solar Component) Program should not be retained by the Company.³⁹³ Instead, he supported Dominion Energy's ownership of the associated RECs for use in complying with its RPS responsibilities and maintained that such retention of ownership would reduce RPS costs for customers.³⁹⁴ In addition, Mr. Frost supported the Commission's resolution of the REC ownership in this case "so that the Company will have clarity on [P]rogram design before offering to eligible participants."³⁹⁵

Regarding Staff's recommendations for the protection of customers participating in the HB 2789 (Solar Component) Program, Mr. Frost confirmed that Dominion Energy is committed to ensuring that the Program participants participate at no cost.³⁹⁶ However, he did not believe the "warranty" requirement recommended by Staff is necessary.³⁹⁷

³⁸⁷ *Id.* at 12-13.

³⁸⁸ *Id.* at 13.

³⁸⁹ *Id.* at 14.

³⁹⁰ *Id.*

³⁹¹ *Id.*

³⁹² *Id.* at 15.

³⁹³ *Id.* at 15-16.

³⁹⁴ *Id.* at 16.

³⁹⁵ *Id.*

³⁹⁶ *Id.* at 17.

³⁹⁷ *Id.*

Mr. Frost disagreed with Staff witness Boehnlein's suggestion that design issues related to the Company's IAQ Programs (previously approved as part of Phase IV and proposed as part of Phase IX) raise environmental justice issues impacted by the VEJA.³⁹⁸ He did not believe such Programs fit within the definition of environmental justice under the VEJA.³⁹⁹ Nevertheless, he affirmed that Dominion Energy takes its responsibilities to the community and environmental justice issues seriously.⁴⁰⁰ Similarly, he suggested that the environmental justice concerns raised by Staff witness Boehnlein regarding the Phase IX Residential Water Savings Program are not supported by the VEJA.⁴⁰¹

Regarding EM&V, Mr. Frost believed the *EM&V Determination Case* will sufficiently address the EM&V concerns raised by Staff witness Boehnlein.⁴⁰² He also confirmed Dominion Energy "will follow Commission guidance or directives as it relates to EM&V."⁴⁰³

When providing surrebuttal, Mr. Frost committed to the Company's "all-of-the above approach" in the development of planning information to be submitted in its December DSM filing – including short-term, medium-term, and long-term recommendations to improve its DSM Portfolio addressing issues such as gaps in its Programs and measures, marketing, streamlining the Company's DSM Programs, and improving the overall customer experience.⁴⁰⁴ He also indicated that the stakeholder process would assist in the development of such planning information.⁴⁰⁵ Moreover, he reiterated his position that Staff's participation in the stakeholder process would be valuable.⁴⁰⁶

During cross-examination by the Environmental Respondent, Mr. Frost suggested that information from the Cadmus report (which will be completed by the fourth quarter of 2021) should be included as part of the strategic report filing in December 2021, together with ideas from other sources.⁴⁰⁷

When questioned by Staff, Mr. Frost clarified that an evaluation is necessary to determine the possibility of expanding its current marketing opportunities without increasing administrative costs.⁴⁰⁸

Regarding the HB 2789 (Solar Component) Program, Mr. Frost continued to maintain that the Company's retention of associated RECs makes common sense as a means of decreasing costs for customers.⁴⁰⁹ He was unsure whether the issue of REC treatment is normally

³⁹⁸ *Id.* at 17-19.

³⁹⁹ *Id.* at 17-18.

⁴⁰⁰ *Id.* at 19.

⁴⁰¹ *Id.* at 19-20.

⁴⁰² *Id.* at 20.

⁴⁰³ *Id.*

⁴⁰⁴ Tr. at 220-22.

⁴⁰⁵ *Id.* at 222-23.

⁴⁰⁶ *Id.* at 223-25.

⁴⁰⁷ *Id.* at 227-28.

⁴⁰⁸ *Id.* at 230-31.

⁴⁰⁹ *Id.* at 232-33.

considered in the context of a RPS case.⁴¹⁰ He also confirmed Dominion Energy's commitment to ensuring participation in the HB 2789 (Solar Component) Program will come at no cost to participants for the life of the associated solar panel (and would include costs of removal).⁴¹¹ In addition, he agreed that the Company could (and may) bring Staff's suggestions into the stakeholder process.⁴¹²

Mr. Hubbard responded to Staff's testimony relating to: (1) Staff's audit of the Company's active Programs; (2) Staff's recommendation regarding Program duplication; and (3) Staff's concerns about the IAQ Programs, the Residential Water Savings Programs; and the Residential Efficient Products in Marketplace Programs.⁴¹³

Regarding Staff's audit, Mr. Hubbard suggested Staff's failure to discover any material discrepancies in documentation relative to Program-specific and common costs and incentives "are indicative of the improvements the Company made over the years with respect to our quality control and assurance procedures."⁴¹⁴ He also represented that Dominion Energy intends to continue to review its control procedures going forward.⁴¹⁵ Furthermore, he responded to Staff witness Morgan's recommendation for the Company's submission of a chart in future DSM filings summarizing certain information by noting that such information is already included in Dominion Energy's annual EM&V filing.⁴¹⁶ Nevertheless, he indicated that the Company did not object to Staff's request for the inclusion of such a chart in future filings.⁴¹⁷ In addition, he emphasized that Staff witness Morgan raised his concern regarding the level of non-incentive costs associated with the Company's Programs before correcting his testimony to reflect a decrease in such costs (from 46% to 32%) and maintained Dominion Energy's incentive/non-incentive cost ratio is "in line or lower than other utilities."⁴¹⁸ Moreover, he asserted that the adoption of Staff's recommendations regarding marketing and EM&V would significantly increase non-incentive costs.⁴¹⁹

In response to Staff's concerns regarding the potentially duplicative nature of the Residential Virtual Audit, Home Energy Assessment, Manufactured Homes, and Home Retrofit Programs, Mr. Hubbard first noted that all four Programs passed three of the four cost/benefit tests and, therefore, are deemed in the public interest.⁴²⁰ Furthermore, he disagreed that the four Programs serve as substitutes for each other because of the differing customer assessments applicable for the Programs.⁴²¹ Nevertheless, he confirmed that Dominion Energy will investigate opportunities to streamline such Programs.⁴²² In addition, Mr. Hubbard represented

⁴¹⁰ *Id.* at 233.

⁴¹¹ *Id.* at 234-36.

⁴¹² *Id.* at 237-39.

⁴¹³ Ex. 18, at 1.

⁴¹⁴ *Id.* at 3.

⁴¹⁵ *Id.*

⁴¹⁶ *Id.* at 4.

⁴¹⁷ *Id.*

⁴¹⁸ *Id.* at 4-5.

⁴¹⁹ *Id.* at 5.

⁴²⁰ *Id.* at 6.

⁴²¹ *Id.*

⁴²² *Id.*

that the Company does not oppose Staff's recommendation for allowing customers who have participated in prior Company EE audits to participate in the Residential Virtual Audit Program proposed in Phase IX, if such customers did not install the same measures when participating in the earlier Programs.⁴²³

In response to Staff's concern that customers living in single family, mobile or manufactured homes are being excluded from participating in Dominion Energy's current IAQ Program, Mr. Hubbard highlighted other DSM Programs benefiting low-income customers and the EnergyShare Program's weatherization benefits.⁴²⁴ He denied that multi-family homes are being served to the detriment of other housing types and contended the Phase IV IAQ Program filled a prior void.⁴²⁵

Furthermore, although Mr. Hubbard acknowledged that the Company's website previously indicated access to Dominion Energy's "now ended" Phase IV IAQ Home Improvement Program could be limited based on where and when qualified WSPs operate, he testified that such a post has been removed and clarified that the applicable implementation vendor has now qualified contractors who can provide services to customers in areas where there is not an available WSP.⁴²⁶ He stated further: "[t]he Company is not aware of any situation in which an eligible and interested customer has been denied or otherwise not received services."⁴²⁷ Moreover, he disagreed with Staff witness Boehnlein's suggestion that the maximization of revenues is the sole goal of state WSPs (who provide services in coordination with the Department of Housing and Community Development).⁴²⁸

Mr. Hubbard maintained that Dominion Energy's IAQ Programs, as well as EnergyShare, have delivered value energy savings to vulnerable customers.⁴²⁹ He noted that the stakeholder group has supported such Programs.⁴³⁰ In addition, he disputed Staff witness Boehnlein's cost-effectiveness review of the IAQ Programs, stating:⁴³¹

[EE] [P]rograms that deliver benefits to low-income, elderly, and disabled populations are inherently different from other types of [P]rograms, which is why they receive special status under the law with respect to the public interest standard. The Company's IAQ Programs are part of a greater network of state and federal programs designed to benefit these target populations and should be viewed through that lens.

In response to Staff's concerns regarding possible depressed customer participation in the Residential Water Savings Program, Mr. Hubbard maintained that the majority of expected

⁴²³ *Id.* at 7.

⁴²⁴ *Id.* at 7-8.

⁴²⁵ *Id.* at 9.

⁴²⁶ *Id.*

⁴²⁷ *Id.* at 10.

⁴²⁸ *Id.*

⁴²⁹ *Id.* at 11.

⁴³⁰ *Id.*

⁴³¹ *Id.* at 12.

participants would not be impacted by the DR aspects of the Program (if they enroll in the DR component for an annual incentive) because they would not notice a DR event occurring or be inconvenienced by it.⁴³² Furthermore, he differentiated the Residential Water Savings Program from the AC Cycling Program.⁴³³ In addition, he disputed Mr. Boehnlein's suggestion that the Residential Water Savings Program is targeted to affluent customers and noted that it was recommended by the stakeholder group.⁴³⁴

In response to Staff's concerns regarding the design of the Residential Efficient Products Marketplace Program, Mr. Hubbard noted that the Program has not changed since it was approved.⁴³⁵ He also described the technology used in the Program's design and emphasized its popularity with residential customers.⁴³⁶ Furthermore, he represented that he would share with the Program's designer Staff's recommendation of a phone app linked to customer accounts to obtain a coupon code for the Program.⁴³⁷ He also encouraged Staff to participate in stakeholder meetings to provide suggestions in the future and noted "[f]eedback provided within the stakeholder process is more easily acted upon than comments received during a litigated proceeding."⁴³⁸

When providing surrebuttal testimony, Mr. Hubbard clarified, in response to Dana Wiggins testimony, that Dominion Energy developed income eligibility criteria for the IAQ Program based upon coordination with the stakeholders and is willing to incorporate modifications to the income criteria going forward if given the flexibility by the Commission.⁴³⁹ In addition, he confirmed the Company's request for the approval of refrigerator replacement and floor insulation measures in the IAQ Program and explained that such measures were included in the IAQ Program budget.⁴⁴⁰ Furthermore, he explained that Dominion Energy did not include specific health and safety measures in the proposed IAQ Program because of the need to provide installation professionals with flexibility regarding the precise health and safety requirements of Program participants.⁴⁴¹ Moreover, he affirmed that all measures under the IAQ Program are provided to participants at no cost.⁴⁴²

During cross-examination by Staff, Mr. Hubbard acknowledged Dominion Energy's shift of the IAQ Program's focus in 2015 to multi-family homes following consultation with various stakeholders, including the WSP network.⁴⁴³ In addition, in response to a prior representation on the Company's website relating to its prior IAQ Program (and concerns raised by Staff about rural access), Mr. Hubbard highlighted various alternatives for low-income customers to obtain

⁴³² *Id.* at 14.

⁴³³ *Id.* at 15.

⁴³⁴ *Id.* at 15-16.

⁴³⁵ *Id.* at 16-17.

⁴³⁶ *Id.*

⁴³⁷ *Id.* at 18.

⁴³⁸ *Id.*

⁴³⁹ Tr. at 242.

⁴⁴⁰ *Id.* at 243. Such measures were omitted from the Company's Filing Schedule 46 A.

⁴⁴¹ *Id.* at 243-44.

⁴⁴² *Id.* at 246.

⁴⁴³ *Id.* at 247-48.

access to weatherization services, if they are unable to contact a local WSP.⁴⁴⁴ Mr. Hubbard subsequently guaranteed that customers meeting the income criteria (80% of the local or 60% of the state median) will not be denied participation in the Phase IX IAQ Program based upon his or her geographic location.⁴⁴⁵

Mr. Hubbard reiterated his opinion that the General Assembly gave IAQ Programs a special status with regard to cost/benefit requirements because of impediments to low-income EE access and participation.⁴⁴⁶ Furthermore, he agreed that the Company did not present a detailed cost breakdown for each measure in the proposed Phase IX IAQ Program but, instead, provided total cost estimates formulated by the Program designer based upon market intelligence.⁴⁴⁷ He maintained such cost flexibility over the Program's approval period is important.⁴⁴⁸ In addition, although he acknowledged that the projected savings per participant in the Phase IX IAQ Program is only an average of 67 kWh per year, he noted there is a wide range projected savings per participant (including some participants who would realize less savings than 67 kWh per year) and continued to defend the design of the proposed Phase IX IAQ Program as being beneficial for low-income customers.⁴⁴⁹

Regarding Phase IX IAQ Program funds designated for health and safety, Mr. Hubbard clarified that the Company intends to allocate 15% of the budget to different providers (based on need and census data) to go toward health and safety measures but not 15% of the overall \$40 million budget for the IAQ Program.⁴⁵⁰ In addition, although he acknowledged health and safety measures are not EE measures, he maintained that they enable EE and believed it is appropriate for ratepayers to pay for such non-energy efficiency measures in the context of the IAQ Program.⁴⁵¹ He also affirmed that contractors performing the health and safety work are required to provide a detailed cost breakdown to the Company and such information is subject to audit and a quality assurance process.⁴⁵² Similarly, he affirmed that health and safety costs were included in Dominion Energy's cost/benefit analysis of the Phase IX IAQ Program.⁴⁵³

Regarding the stakeholder process, Mr. Hubbard agreed that the Company is not required to accept all recommendations made by stakeholders.⁴⁵⁴ When asked if Dominion Energy would be required to accept Staff's recommendations within the context of the stakeholder process, Mr. Hubbard represented that the Company considers all suggestions.⁴⁵⁵

⁴⁴⁴ *Id.* at 251-53.

⁴⁴⁵ *Id.* at 254.

⁴⁴⁶ *Id.* at 255-56.

⁴⁴⁷ *Id.* at 257-59.

⁴⁴⁸ *Id.* at 260.

⁴⁴⁹ *Id.* at 261-65.

⁴⁵⁰ *Id.* at 267.

⁴⁵¹ *Id.* at 267-69.

⁴⁵² *Id.* at 269-70.

⁴⁵³ *Id.* at 270-71.

⁴⁵⁴ *Id.* at 272-74.

⁴⁵⁵ *Id.* at 274.

Ms. Lecky responded to the testimony of Staff witness Morgan and updated parts of her direct testimony and her proposed revenue requirement for Riders C1A, C2A, C3A, and C4A to reflect adjustments identified by Dominion Energy in its 2021 Triennial Review.⁴⁵⁶ She also responded to Staff's recommended exclusion of margins from the revenue requirement beginning January 1, 2022.⁴⁵⁷

Ms. Lecky explained that the Company updated the 2019 True-up component of the revenue requirement in this case (pertaining to Riders C1A, C2A, and C3A) based upon more recent adjustments.⁴⁵⁸ Furthermore, although Dominion Energy maintained that the Commission has the discretion to approve the inclusion of a margin as a project cost, she provided a recalculation of the Projected Factor removing the margin expense for the months of January through August 2022 for informational purposes.⁴⁵⁹ Specifically, she recalculated a Rate Year revenue requirement in the amount of \$73,837,376 based upon Staff's recommendation for the exclusion of a margin for the relevant period.⁴⁶⁰ With the margin included (and including the adjustments from the 2021 Triennial Review), she recalculated and supported a rebuttal Rate Year requirement of \$78,713,092.⁴⁶¹ However, because this amount exceeds the noticed revenue requirement of \$78,119,830, she confirmed that the Company's recovery should be limited to the amount noticed and indicated any difference between her rebuttal revenue requirement and the amount approved by the Commission can be addressed in a future True-up.⁴⁶²

At the hearing, Ms. Lecky sponsored a chart outlining three revenue requirement scenarios and associated residential class allocation factors, residential class revenue requirements, and residential class rate and bill impacts at issue. Such chart reflects the Company's initially requested revenue requirement of approximately \$78.1 million; a second revenue requirement of approximately \$73.8 million (removing a margin from January through August 2022 and including the True-up Factor for Riders C1A, C2A, and C3A the adjustment from the Company's 2021 Triennial Review); and a third revenue requirement of \$78.7 million including the 2021 Triennial Review adjustment and the margin.⁴⁶³ She also confirmed her understanding that if a newly approved DSM rate goes into effect after the Rate Year was scheduled to begin, the existing rate would continue until the new DSM rate goes into effect.⁴⁶⁴

When cross-examined by Staff, Ms. Lecky represented that Dominion Energy defers to Commission discretion regarding the margin issue.⁴⁶⁵

⁴⁵⁶ Ex. 19 and 19ES, at 1. Although Ms. Lecky submitted a public and extraordinarily sensitive version of her prefiled rebuttal testimony, only the public information is summarized herein.

⁴⁵⁷ *Id.*

⁴⁵⁸ *Id.* at 2.

⁴⁵⁹ *Id.*

⁴⁶⁰ *Id.* at 3.

⁴⁶¹ *Id.* at 3 and Rebuttal Schedule 2.

⁴⁶² *Id.* at 3.

⁴⁶³ Tr. at 279-80. *See also* Ex. 20.

⁴⁶⁴ Tr. at 283. Staff agreed with Ms. Lecky's understanding. *Id.* at 284. As further explained by Counsel for the Company, the existing rate remains in effect until a new tariff filing is made with a new effective date. *Id.* at 285.

⁴⁶⁵ *Id.* at 287.

Mr. Hewett presented updated allocations for the Virginia jurisdictional customer classes for Riders C1A, C2A, C3A, and C4A used for the revenue requirement apportionment.⁴⁶⁶ He explained that he updated his proposed allocation factors in response to the adjustment included in Dominion Energy's supplemental 2021 Triennial Review filing.⁴⁶⁷ In addition, he confirmed that he used the same cost allocation methodology for the Virginia jurisdictional classes as he used in his direct testimony.⁴⁶⁸

Ms. Catron updated her calculation of the Company's proposed RACs supported in its 2020 DSM Update to reflect the Company's rebuttal revenue requirement and updated allocation factors.⁴⁶⁹ She denied modifying the methodology used in her calculation of revised Rider C1A, C2A, C3A, and C4A.⁴⁷⁰ Furthermore, she explained that the Commission's approval of Dominion Energy's revised, proposed DSM RACs (incorporating the adjustment from the Company's 2021 Triennial Review and retaining Dominion Energy's margin proposal) would decrease the monthly bill of a residential customer using 1,000 kWh a month by \$0.16.⁴⁷¹

Ms. Feng responded to Staff's recommendations for the Company to develop and file detailed EM&V plans with its proposed DSM Programs, addressed the applicability of certain EM&V methods to specific DSM Programs, and responded to Staff comments regarding EM&V rigor.⁴⁷²

Ms. Feng provided an overview of DNV's process for developing EM&V plans for each stage and opined that it would be inappropriate to deviate from the current EM&V planning timeline.⁴⁷³ She also explained that EM&V work plans include details determined "based on the actual participation counts and types and volume of measures installed in the [P]rogram at the time of evaluation."⁴⁷⁴

Ms. Feng disputed Staff witness Boehnlein's conclusion that EM&V strategies relative to the Residential Efficient Products Marketplace Program have changed.⁴⁷⁵ Among other things, she explained that DNV uses the deems savings method to track savings associated with EE Programs whether or not an impact evaluation is conducted and the results of both approaches are included in the Company's yearly EM&V report.⁴⁷⁶ She explained further: "[d]eemed savings calculations are needed to track [P]rogram accomplishments on an ongoing basis, while

⁴⁶⁶ Ex. 21 and 21ES, at 1 and Rebuttal Schedules 1-4. Although Mr. Hewett submitted a public and extraordinarily sensitive version of his prefiled rebuttal testimony, only the public information is summarized herein.

⁴⁶⁷ *Id.* at 1.

⁴⁶⁸ *Id.*

⁴⁶⁹ Ex. 22, at 1.

⁴⁷⁰ *Id.* at 3.

⁴⁷¹ *Id.* at 3 and Rebuttal Schedule 3. As clarified at the hearing, however, the impact on residential rates would remain essentially unchanged as a result of this case even if the Commission adopts the Company's proposed rebuttal revenue requirement including a margin because of limitations associated with the noticed revenue requirement amount. See Ex. 20; Tr. at 282.

⁴⁷² Ex. 23, at 1.

⁴⁷³ *Id.* at 3-4.

⁴⁷⁴ *Id.* at 3.

⁴⁷⁵ *Id.* at 5.

⁴⁷⁶ *Id.*

impact evaluations are conducted periodically.”⁴⁷⁷ She highlighted information provided in the Company’s May 15, 2020, EM&V Report relative to the Residential Efficient Products Marketplace EM&V plan.⁴⁷⁸ In addition, regarding DNV’s EM&V’s activities for the Residential Efficient Market Place Program, she represented as follows: “[o]nce there was sufficient participation and data, DNV conducted the impact evaluation and has now incorporated those results into the most recent EM&V report filing made on May 14, 2021.”⁴⁷⁹

Ms. Feng also disagreed with Staff witness Boehnlein’s conclusion that less rigorous EM&V would make it easier for the Company to report EE savings likely to meet or exceed the VCEA’s targets.⁴⁸⁰ According to Ms. Feng, “less rigorous EM&V may result in over-stated or under-stated savings, and can affect achievement of the [EE] targets either way.”⁴⁸¹ Furthermore, she disputed Mr. Boehnlein’s suggestion that Dominion Energy has only conducted two EM&V impact evaluations of approved DSM Programs and, instead, clarified that the Company has conducted 14 such evaluations.⁴⁸² In addition, she confirmed the Company’s intention to conduct more rigorous EM&V evaluations going forward and described Dominion Energy’s plan for improving EM&V rigor.⁴⁸³

Ms. Feng next contested Staff’s understanding of the Company’s expected timeline for impact evaluation reporting and, more specifically, Mr. Boehnlein’s suggestion that the Commission will not receive meaningful EM&V information until five years after a Program is approved.⁴⁸⁴ Among other things, Ms. Feng maintained that although “[t]racked deemed savings may be of less rigor than time impact evaluation results, ... do indicate if the [P]rogram volumes are on track to meet projections.”⁴⁸⁵ She also opined that “it does not make sense to expect feedback on a [P]rogram or begin impact evaluation until the [P]rogram is operating – which, in the Company’s case is the January of the following year after [P]rogram approval.”⁴⁸⁶

When providing surrebuttal, Ms. Feng maintained that it is appropriate to continue using the deemed savings method after the initial cost/benefit modeling stage.⁴⁸⁷ In response to questioning from Staff, she further clarified that the deemed savings methodology is used for the evaluation of lighting measures after Program development with inputs changing over time (based upon additional information).⁴⁸⁸ On redirect, she explained the difference between a deemed savings value and a deemed savings calculation or formula.⁴⁸⁹ Lastly, she confirmed no EM&V savings measurement has been determined for the Phase IX Programs because no customers have yet become participants in such Programs.⁴⁹⁰

⁴⁷⁷ *Id.*

⁴⁷⁸ *Id.* at 6-8.

⁴⁷⁹ *Id.* at 9.

⁴⁸⁰ *Id.* at 9-10.

⁴⁸¹ *Id.*

⁴⁸² *Id.* at 10-11.

⁴⁸³ *Id.* at 11-12.

⁴⁸⁴ *Id.* at 12-13.

⁴⁸⁵ *Id.* at 13.

⁴⁸⁶ *Id.*

⁴⁸⁷ Tr. at 292-93.

⁴⁸⁸ *Id.* at 295-96.

⁴⁸⁹ *Id.* at 296-97.

⁴⁹⁰ *Id.* at 297-98.

DISCUSSION

Applicable Statutory Provisions

As reflected above, through its Petition Dominion Energy seeks approval to: (1) implement 11 new Phase IX DSM Programs; (2) extend by two years its Non-residential DG Program; (3) expand eligibility for certain previously approved Non-residential Programs; (4) update and continue its EE RACs, designated as C1A, C2A, and C3A; and (5) implement a new RAC designated as C4A. The Company's requests, and issues related thereto, are governed by the following statutory provisions.

In accordance with § 56-585.1 A 5 c of the Code, an electric utility may petition the Commission not more than once in any 12-month period for the recovery of the following:

Projected and actual costs for the utility to design, implement, and operate energy efficiency programs or pilot programs. Any such petition shall include a proposed budget for the design, implementation, and operation of the energy efficiency program, including anticipated savings from and spending on each program, and the Commission shall grant a final order on such petitions within eight months of initial filing. The Commission shall only approve such a petition if it finds that the program is in the public interest. If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program that has bearing upon the Commission's determination. Such order shall adhere to existing protocols for extraordinarily sensitive information.

Section 56-585.1 A 5 c of the Code also provides:

Energy efficiency pilot programs are in the public interest provided that the pilot program is (i) of limited scope, cost, and duration and (ii) intended to determine whether a new or substantially revised program would be cost-effective.

Regarding incentives, § 56-585.1 A 5 c of the Code further provides:

Prior to January 1, 2022, the Commission shall award a margin for recovery on operating expenses for energy efficiency programs and pilot programs, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. Beginning January 1, 2022, and thereafter, if the Commission determines that the utility meets in any year the annual energy efficiency standards set forth in § 56-596.2, in the following year, the Commission shall award a margin on energy efficiency program operating expenses in that year, to be recovered through a rate adjustment clause, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. If the Commission does not approve energy

efficiency programs that, in the aggregate, can achieve the annual energy efficiency standards, the Commission shall award a margin on energy efficiency operating expenses in that year for any programs the Commission has approved, to be recovered through a rate adjustment clause under this subdivision, which margin shall equal the general rate of return on common equity determined as described in subdivision 2. Any margin awarded pursuant to this subdivision shall be applied as part of the utility's next rate adjustment clause true-up proceeding. The Commission shall also award an additional 20 basis points for each additional incremental 0.1 percent in annual savings in any year achieved by the utility's energy efficiency programs approved by the Commission pursuant to this subdivision, beyond the annual requirements set forth in § 56-596.2, provided that the total performance incentive awarded in any year shall not exceed 10 percent of that utility's total energy efficiency program spending in that same year.

The Commission shall annually monitor and report to the General Assembly the performance of all programs approved pursuant to this subdivision, including each utility's compliance with the total annual savings required by § 56-596.2, as well as the annual and lifecycle net and gross energy and capacity savings, related emissions reductions, and other quantifiable benefits of each program; total customer bill savings that the programs produce; utility spending on each program, including any associated administrative costs; and each utility's avoided costs and cost-effectiveness results.

Regarding exemptions from participation in EE Programs, § 56-585.1 A 5 c of the Code provides:

As used in this subdivision, "large general service customer" means a customer that has a verifiable history of having used more than one megawatt of demand from a single site.

Large general service customers shall be exempt from requirements that they participate in energy efficiency programs if the Commission finds that the large general service customer has, at the customer's own expense, implemented energy efficiency programs that have produced or will produce measured and verified results consistent with industry standards and other regulatory criteria stated in this section. The Commission shall, no later than June 30, 2021, adopt rules or regulations (a) establishing the process for large general service customers to apply for such an exemption, (b) establishing the administrative procedures by which eligible customers will notify the utility, and (c) defining the standard criteria that shall be satisfied by an applicant in order to notify the utility, including means of evaluation measurement and verification and confidentiality requirements. At a minimum, such rules and regulations shall require that each exempted large general service customer certify to the utility and Commission that its implemented energy efficiency programs have delivered measured and verified savings within the prior five years. In adopting such rules or regulations, the Commission shall also specify the timing as to when a utility shall accept and

act on such notice, taking into consideration the utility's integrated resource planning process, as well as its administration of energy efficiency programs that are approved for cost recovery by the Commission. Savings from large general service customers shall be accounted for in utility reporting in the standards in § 56-596.2.

The notice of nonparticipation by a large general service customer shall be for the duration of the service life of the customer's energy efficiency measures. The Commission may on its own motion initiate steps necessary to verify such nonparticipant's achievement of energy efficiency if the Commission has a body of evidence that the nonparticipant has knowingly misrepresented its energy efficiency achievement.

A utility shall not charge such large general service customer for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

In addition, regarding cost recovery for solar facilities geared toward low-income, elderly, and disabled individuals, § 56-585.1 A 5 g of the Code provides:

Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission to provide incentives to (i) low-income, elderly, and disabled individuals or (ii) organizations providing residential services to low-income, elderly, and disabled individuals for the installation of, or access to, equipment to generate electric energy derived from sunlight, provided the low-income, elderly, and disabled individuals, or organizations providing residential services to low-income, elderly, and disabled individuals, first participate in incentive programs for the installation of measures that reduce heating or cooling costs.

Any rate adjustment clause approved under subdivision 5 c by the Commission shall remain in effect until the utility exhausts the approved budget for the energy efficiency program. The Commission shall have the authority to determine the duration or amortization period for any other rate adjustment clause approved under this subdivision.

Moreover, § 56-576 of the Code defines "energy efficiency program," "in the public interest," and "measured and verified" as follows:

"Energy efficiency program" means a program that reduces the total amount of electricity that is required for the same process or activity implemented after the expiration of capped rates. Energy efficiency programs include equipment,

physical, or program change designed to produce measured and verified reductions in the amount of electricity required to perform the same function and produce the same or a similar outcome. Energy efficiency programs may include, but are not limited to, (i) programs that result in improvements in lighting design, heating, ventilation, and air conditioning systems, appliances, building envelopes, and industrial and commercial processes; (ii) measures, such as but not limited to the installation of advanced meters, implemented or installed by utilities, that reduce fuel use or losses of electricity and otherwise improve internal operating efficiency in generation, transmission, and distribution systems; and (iii) customer engagement programs that result in measurable and verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency programs include demand response, combined heat and power and waste heat recovery, curtailment, or other programs that are designed to reduce electricity consumption so long as they reduce the total amount of electricity that is required for the same process or activity. Utilities shall be authorized to install and operate such advanced metering technology and equipment on a customer's premises; however, nothing in this chapter establishes a requirement that an energy efficiency program be implemented on a customer's premises and be connected to a customer's wiring on the customer's side of the inter-connection without the customer's expressed consent.

....

"In the public interest," for purposes of assessing energy efficiency programs, describes an energy efficiency program if the Commission determines that the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the following four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program Administrator Test); (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. Such determination shall include an analysis of all four tests, and a program or portfolio of programs shall be approved if the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the four tests. If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program, including testimony relied upon by the Commission's staff, that has bearing upon the Commission's decision. If the Commission reduces the proposed budget for a program or portfolio of programs, its final order shall include an analysis of the impact such budget reduction has upon the cost-effectiveness of such program or portfolio of programs. An order by the Commission (a) finding that a program or portfolio of programs is not in the public interest or (b) reducing the proposed budget for any program or portfolio of programs shall adhere to existing protocols for extraordinarily sensitive information. In addition, an energy efficiency program may be deemed to be "in the public interest" if the program (1) provides measurable and verifiable energy savings to low-income customers or elderly customers or (2) is a pilot program of

limited scope, cost, and duration, that is intended to determine whether a new or substantially revised program or technology would be cost-effective.

....

“Measured and verified” means a process determined pursuant to methods accepted for use by utilities and industries to measure, verify, and validate energy savings and peak demand savings. This may include the protocol established by the United States Department of Energy, Office of Federal Energy Management Programs, Measurement and Verification Guidance for Federal Energy Projects, measurement and verification standards developed by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), or engineering-based estimates of energy and demand savings associated with specific energy efficiency measures, as determined by the Commission.

Regarding the EE development targets of a Phase II Utility, such as Dominion Energy, § 56-596.2 of the Code provides as follows:

A. Notwithstanding subsection G of § 56-580, or any other provision of law, each incumbent investor-owned electric utility shall develop proposed energy efficiency programs. Any program shall provide for the submission of a petition or petitions for approval to design, implement, and operate energy efficiency programs pursuant to subdivision A 5 c of § 56-585.1. At least 15 percent of such proposed costs of energy efficiency programs shall be allocated to programs designed to benefit low-income, elderly, or disabled individuals or veterans.

B. Notwithstanding any other provision of law, each investor-owned incumbent electric utility shall implement energy efficiency programs and measures to achieve the following total annual energy savings:

....

2. For Phase II electric utilities:

a. In calendar year 2022, at least 1.25 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

b. In calendar year 2023, at least 2.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

c. In calendar year 2024, at least 3.75 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and

d. In calendar year 2025, at least 5.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and

3. For the time period 2026 through 2028, and for every successive three-year period thereafter, the Commission shall establish new energy efficiency savings targets. In advance of the effective date of such targets, the Commission shall, after notice and opportunity for hearing, initiate proceedings to establish such targets. As part of such proceeding, the Commission shall consider the feasibility of achieving energy efficiency goals and future energy efficiency savings through cost-effective programs and measures. The Commission shall annually review the feasibility of the energy efficiency program savings in this section and report to the Chairs of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor and the Secretary of Natural Resources and the Secretary of Commerce and Trade on such feasibility by October 1, 2022, and each year thereafter.

Finally, regarding the development of energy conservation measures benefiting low-income, elderly, and disabled individuals, § 56-596.2:1 of the Code provides as follows:

A. Each ... Phase II Utility... shall submit a petition for approval to design, implement, and operate a three-year program of energy conservation measures providing incentives to low-income, elderly, and disabled individuals in an amount not to exceed \$25 million in the aggregate for the installation of measures that reduce residential heating or cooling costs and enhance the health and safety of residents, including repairs and improvements to home heating or cooling systems and installation of energy-saving measures in the house, such as insulation and air sealing. In developing such incentive program, each utility shall utilize the stakeholder process set forth in § 56-596.2. The utility may provide such incentives directly to customers or to organizations that assist low-income, elderly, and disabled individuals. Such incentive program shall be deemed to be a part of ... the \$870 million in energy efficiency programs that a Phase II Utility is required to develop pursuant to § 56-596.2; provided that no portion of such incentive programs shall be deemed to be a part of the required five percent of such energy conservation measures set aside for low-income, elderly, and disabled individuals.

B. For (i) low-income, elderly, and disabled individuals or (ii) organizations providing residential services to low-income, elderly, and disabled individuals who participate in, or have already participated in, an incentive program, including the incentive program described in subsection A, for the installation of measures that reduce heating or cooling costs at any premises where people reside, each ... Phase II Utility shall submit a petition for approval to design, implement, and operate a separate three-year incentive program, in an amount not to exceed \$25 million in the aggregate, to enable the installation of, or access to, equipment to generate electric energy derived from sunlight. The utility may provide such incentives directly to customers or to organizations that assist low-income, elderly, and disabled individuals. Such incentive program may include installation of equipment directly on the premises or access to equipment located elsewhere, provided such installation or access reduces the total energy costs for

persons described in clause (i) or (ii). Such incentive program shall not be deemed to be a part of the ... \$870 million in energy efficiency programs that a Phase II utility is required to develop pursuant to § 56-596.2.

C. In developing such incentive programs, each utility shall give consideration to low-income, elderly, and disabled persons residing in housing that a redevelopment and housing authority owns or controls.

Analysis

Based upon the issues developed throughout this case (as specifically addressed in the post-hearing briefs), my consideration of the Petition focuses on the following subjects: (A) non-opposed Phase IX Programs and extension of the Company's Phase II Non-residential DG Program; (B) expanded eligibility requirements for certain previously approved Programs; (C) potential streamlining of the Company's DSM audit Programs; (D) the pool pump component of the Residential Water Savings Program; (E) the Residential IAQ Program; (F) the HB 2789 (Solar Component) Program; (G) environmental justice concerns; (H) strategic plan/achieving statutory targets; (I) EM&V concerns; and (J) associated Riders and revenue requirement.⁴⁹¹

A. Non-Opposed Phase IX Programs and Extension of the Phase II Non-residential DG Program

Regarding Dominion Energy's Phase IX DSM Portfolio, the Residential Smart Home (EE), the Residential Virtual Audit (EE), the Residential Water Savings (EE) and (DR), the Non-residential Agricultural (EE), the Non-residential Building Automation (EE), the Non-residential Building Optimization (EE), the Non-residential Engagement (EE), and the Non-residential Enhanced Prescriptive (EE) Programs are generally not opposed by case participants.⁴⁹² In addition, Dominion Energy's analysis shows each of these Programs passes at least three of the four applicable cost/benefit tests.⁴⁹³ In my view, and consistent with § 56-576

⁴⁹¹ An additional issue not discussed below relates to the stakeholder process. In its prefiled testimony, Dominion Energy suggested Staff's participation in the stakeholder process may improve its DSM offerings and streamline the ultimate approval process. See Ex. 18, at 18. Staff, however, continues to assert that its review and input relative to DSM issues is better suited to formal Commission proceedings. Staff Brief at 37-39. Based upon my reading of § 56-596.2 C of the Code, the participation of Commission Staff members is expected in the stakeholder process. Nevertheless, because the Staff stakeholder participation issue is also being addressed in the *EM&V Determination Case*, there appears to be no need to address it herein.

⁴⁹² See Ex. 2 and 2ES, at 7. See also Staff Brief at 10, 14; Consumer Counsel Brief at 13 (representing that Consumer Counsel takes no position on the issues not addressed in its post-hearing brief); ER Brief at 6, 17 (supporting the conditional approval of the Phase IX Programs). Although the Commission's approval of the proposed Residential Virtual Audit Programs was not directly opposed by any case participant, Staff's recommendation for the consolidation of the Company's audit Programs is addressed below. Furthermore, although the Residential Water Savings (EE) Program is not directly opposed, Staff and Consumer Counsel raise concerns that are addressed below regarding the pool pump component of such Program.

⁴⁹³ See Ex. 5 and Ex. 6. See also Tr. at 177-80.

of the Code, the Company has established a basis for the Commission's approval of each of these Programs.⁴⁹⁴

Furthermore, regarding the Company's existing Phase II Non-residential DG Program, case participants do not challenge the Company's request for approval to extend such Program for two more years.⁴⁹⁵ In addition, Dominion Energy does not seek additional funds under the current cost cap applicable to this Program.⁴⁹⁶ The undisputed evidence also demonstrates the DG Program's continued status as an important resource for the Company during periods of peak demand.⁴⁹⁷ Moreover, Dominion Energy's short-term extension of the DG Program should serve to bridge the gap between the current Program and similar Programs Dominion Energy may consider in the future.⁴⁹⁸ Based upon these factors, the Commission should approve the Company's proposed extension of its Phase II Non-residential DG Program for an additional two years.

B. Expanded Eligibility Requirements

Dominion Energy seeks approval to expand the eligibility requirements for certain Non-residential Phase VII and VIII Programs in response to the change from an automatic exemption to an opt-out process for LGS Customers and the change to the demand threshold from 500 kW to 1 MW effectuated by the VCEA's modification to § 56-585.1 A 5 of the Code.⁴⁹⁹ Specifically, the Company proposes to expand the eligibility requirements for its Phase VII and Phase VIII Non-residential Lighting Systems and Controls, Non-residential Heating and Cooling Efficiency, Non-residential Window Film, and Non-residential Small Manufacturing Programs previously approved by the Commission.⁵⁰⁰ According to Dominion Energy, if customers with over 500 kW "are going to begin paying for Phase VII and VIII [EE] [P]rograms as of the beginning of the proposed Rate Year, they should also be eligible to participate in the non-residential [P]rograms available through those DSM Phases."⁵⁰¹

No participant opposes the Company's expanded eligibility requirements for the Programs identified above.⁵⁰² In addition, the record supports their adoption.⁵⁰³ Under the circumstances, the Commission should approve the expanded eligibility requirements proposed by Dominion Energy.

⁴⁹⁴ See Ex. 4 (Hubbard Direct providing details regarding all of the Phase IX Programs and the measures included with them). Because such Programs pass at least three out of four of the cost/benefit tests, they meet the public interest criteria § 56-576 of the Code.

⁴⁹⁵ See Staff Brief at 41; Consumer Counsel Brief at 13 (taking no position on the DG issue); ER Brief at 6. See also Ex. 2 and 2ES, at 9.

⁴⁹⁶ Ex. 2 and 2ES, at 9-10.

⁴⁹⁷ Ex. 3, at 10; Ex. 4, at 4.

⁴⁹⁸ Ex. 3, at 10; Ex. 4, at 5.

⁴⁹⁹ Ex. 2 and 2ES, at 10.

⁵⁰⁰ *Id.*

⁵⁰¹ *Id.*

⁵⁰² Staff Brief at 42; Consumer Counsel Brief at 13; ER Brief at 6-7.

⁵⁰³ See Ex. 3, at 10-11.

C. Potential Streamlining of DSM Audit Programs

Although Staff does not directly oppose the Company's proposed Phase IX Residential Virtual Audit (EE) Program, Staff maintains such Program is duplicative of the Phase VII Residential Home Energy Assessment Program, the Phase VIII Residential Manufactured Homes Program, and the Phase VIII Residential Home Retrofit Program.⁵⁰⁴ Staff suggests the consolidation of such Programs could lower overall administrative costs, increase cost/benefit scores or proportionally increase rebates.⁵⁰⁵ Even if these Programs are not consolidated, Staff recommends that customers not be precluded from participating in the Phase IX Residential Virtual Audit Program merely because they participated in a previously approved audit Program.⁵⁰⁶

Dominion Energy asserts that the Phase IX Residential Virtual Audit Program offers a new mechanism to address energy savings opportunities in homes and must be approved on an individual basis because it passes three out of the four cost/benefit tests.⁵⁰⁷ Nevertheless, the Company represents that it is willing to explore opportunities to streamline its audit Programs.⁵⁰⁸ In addition, Dominion Energy does not oppose Staff's recommendation to allow customers who have participated in prior Company EE audits to participate in the Residential Virtual Audit Program proposed in Phase IX, if such customers did not install the same measures when participating in the earlier Programs.⁵⁰⁹

The record supports approval of the Phase IX Residential Virtual Audit Program without consolidation because it meets the statutory criteria (and with the understanding that the Company will not preclude customers who have participated in prior Dominion Energy audits without installing comparable measures from participating in the new Phase IX Program). However, evidence reflecting the overall similarity of the Company's audit Programs also appears to support a directive from the Commission requiring Dominion Energy to investigate opportunities to streamline its audit Programs going forward.

D. The Pool Pump Component of Residential Water Savings (EE) Program

Although Staff does not oppose the Residential Water Savings (EE) Program, Staff is concerned that the benefits of the energy efficient pool pump measure within the Program "are concentrated with residential customers who live in a single-family home and own, or are contemplating building, a pool but that the costs are spread to non-participating customers."⁵¹⁰ Similarly, Consumer Counsel believes the pool pump measure should be removed from the

⁵⁰⁴ Staff Brief at 21.

⁵⁰⁵ *Id.* at 21.

⁵⁰⁶ *Id.* at 21-22.

⁵⁰⁷ Company Brief at 21.

⁵⁰⁸ *Id.*

⁵⁰⁹ Ex. 18, at 7.

⁵¹⁰ Staff Brief at 20. *See also id.* at 10, 41 (explaining that Staff does not oppose any of the Phase IX DSM Programs that pass three of the four cost benefit tests). Staff also raises environmental justice concerns associated with the pool pump measure. *Id.* at 20-21. Such concerns are addressed below.

Residential Water Savings (EE) Program because its inclusion “exacerbates the [P]rogram’s transfer of benefits from non-participants to participants.”⁵¹¹

According to the Company, the Residential Water Savings (EE) Program, which provides incentives for the installation of smart communicating water heaters and pool pump technologies, is a standard utility offering that was supported by the stakeholder group.⁵¹² Dominion Energy also represents that the stakeholder group recommended the pool pump measure “because of the typically large associated savings.”⁵¹³

It is undisputed that the Residential Water Savings (EE) Program passes three out of four of the cost/benefit tests. Therefore, even though such Program does not pass the RIM test, it meets the public interest criteria of § 56-576 of the Code.⁵¹⁴ Because the entire Program meets the statutory public interest standard, I find the record does not support the Commission’s directed removal of the pool pump measure from the Residential Water Savings (EE) Program.⁵¹⁵

E. The Residential IAQ Program

Although Staff acknowledges that the proposed Phase IX Residential IAQ Program “technically” meets the requirements of the Code, Staff suggests that the design of such Program fails to respond to the legislative intent of the relevant statutory provisions.⁵¹⁶ Staff highlights provisions of the Code requiring proof of measurable and verifiable energy savings associated with IAQ Programs; requiring the Company’s implementation of a Program to reduce the residential heating and cooling costs of low income, elderly, and disabled customers; and providing for the establishment of the PIPP program to reduce the utility bill payments of participants and their electricity usage.⁵¹⁷ According to Staff, the “overall legislative intent” of these statutory provisions is to provide more benefits directly to low income, elderly, and disabled customers.⁵¹⁸ In Staff’s assessment, the proposed Phase IX Residential IAQ Program fails to comply with such legislative intent because: (1) it excludes certain low-income, elderly, and disabled customers (who do not live in multi-family housing in densely populated urban areas);⁵¹⁹ (2) the Program’s design inflates the cost of measures, thereby lowering the associated

⁵¹¹ Consumer Counsel Brief at 12.

⁵¹² Company Brief at 22.

⁵¹³ *Id.*

⁵¹⁴ See Ex. 13, at 34 (Staff witness Boehnlein recognizing that the Residential Water Savings (EE) Program does not pass the RIM test).

⁵¹⁵ As explained below, I also conclude the requirements of the VEJA do not support such removal.

⁵¹⁶ Staff Brief at 22, 26.

⁵¹⁷ *Id.* Specifically, Staff highlights the requirements of § 56-576 of the Code (for an EE Program to be deemed in the public interest); HB 2789’s requirement for the design and implementation of a three-year Program to reduce residential heating and cooling costs for low income, elderly, and disabled customers (enacted by 2019 Va. Acts ch. 748); and the establishment of the PIPP program by 2020 Va. Acts chs. 1193 and 1194.

⁵¹⁸ Staff Brief at 26.

⁵¹⁹ Staff Brief at 15, 22-24. In Staff’s assessment, the exclusion of certain low-income, elderly, and disabled customers also gives rise to environmental justice issues. *Id.* at 27-29. Such concerns are addressed in more detail below.

energy savings;⁵²⁰ and (3) the low projected savings from the Program fails to establish compliance with the General Assembly's legislative goal to provide more benefits directly to low income, elderly, and disabled customers.⁵²¹

Among other things, Staff distinguishes the administrative eligibility of customers in a rural area to obtain access to the weatherization services provided in the Phase IX IAQ Program from the actual ability of such customers to participate in such Program.⁵²² Staff also highlights the substantial decrease in the NPV of benefits to IAQ Program participants from the Phase VII IAQ Program to the Phase IX IAQ Program and believes such decrease suggests "participants are receiving less bill savings while the Company is more than doubling its proposed spending."⁵²³

Consumer Counsel shares Staff's concerns regarding the design of the Phase IX IAQ Program and its costs in relation to its benefits.⁵²⁴ Consumer Counsel is particularly concerned regarding the potential impact of such IAQ Program on the PIPP program.⁵²⁵ Consumer Counsel is also "skeptical" of the necessity for ratepayers to fund health and safety measures in connection with the Residential IAQ Program (included within the Program's design as a 15% health and safety cap).⁵²⁶ Given what it perceives to be design flaws with the Phase IX Residential IAQ Program, and a lack of cost transparency associated with specific measures, Consumer Counsel supports the recommendation of Staff witness Boehnlein that the Company be required to provide more detailed cost support for its IAQ Programs going forward.⁵²⁷

Despite the fact that the health and safety measures contemplated in Dominion Energy's Residential IAQ Program do not technically constitute EE measures, the Environmental Respondent supports the inclusion of such measures in the Residential IAQ Program as a means of enabling EE improvements in homes.⁵²⁸ Specifically, the Environmental Respondent views the home repair/health and safety measures described by the Company as "prerequisites" to making the EE improvements contemplated by the IAQ Program.⁵²⁹

According to the Company, the Phase IX Residential IAQ Program will provide qualifying participants with in-home energy assessments and the installation of energy-savings measures.⁵³⁰ Because the record shows such Program will provide approximately \$3.5 million in quantifiable benefits to eligible participants on a NPV basis over the life of the IAQ Program,

⁵²⁰ *Id.* at 25-26.

⁵²¹ *Id.* at 26-27.

⁵²² *Id.* at 24.

⁵²³ *Id.* at 25. Staff notes that Dominion Energy proposes \$40 million of costs associated with the Phase IX IAQ Program saving an average participant \$0.62 per month, or \$7.39 per year, based upon the average retail electricity rate of \$0.11 per kWh. *Id.* Moreover, Staff provides an example of savings that could be achieved through a different design based upon the cost of 40-watt LED lightbulbs at Walmart. *Id.* (citing Ex. 13, at 63).

⁵²⁴ Consumer Counsel Brief at 7-9.

⁵²⁵ *Id.* at 9.

⁵²⁶ *Id.* at 9-10.

⁵²⁷ *Id.* at 10 (citing Tr. at 149).

⁵²⁸ ER Brief at 15-17.

⁵²⁹ *Id.* at 16-17.

⁵³⁰ Company Brief at 9.

Dominion Energy also maintains the Program should be deemed “in the public interest” in accordance with § 56-576 of the Code.⁵³¹

In addition to contending that the Residential IAQ Program meets the statutory public interest criteria, the Company asserts that the projected savings associated with such Program are appropriate, while also providing an opportunity for future expansion.⁵³² Moreover, Dominion Energy disputes Staff’s suggestion that there is any bias in the design or implementation of the IAQ Program against customers who do not live in multi-family dwellings.⁵³³ Furthermore, the Company supports the inclusion of a 15% health and safety cap in the design of the Phase IX Residential IAQ Program as a means of enabling energy savings.⁵³⁴

Pursuant to § 56-576 of the Code, “an [EE] program may be deemed to be ‘in the public interest’ if the [P]rogram ... provides measurable and verifiable energy savings to low-income customers or elderly customers.”⁵³⁵ Based upon Dominion Energy’s analysis, which is undisputed, the proposed Phase IX Residential IAQ Program will provide quantifiable benefits to eligible participants on a NPV basis over the life of the Program.⁵³⁶ Under the circumstances, and based upon the plain language of § 56-576 of the Code, such Program appears to be “in the public interest” and, as such, should be approved by the Commission.⁵³⁷ In my assessment, the evidence also supports the inclusion of the proposed health and safety measure in the Residential IAQ Program as a means of facilitating EE improvements in the homes of participants.⁵³⁸

Having concluded that the Phase IX Residential IAQ Program should be approved, I nevertheless share the concerns of Staff and Consumer Counsel regarding the level of energy savings expected to be achieved through such Program relative to its costs.⁵³⁹ Based upon such

⁵³¹ *Id.* at 10 (citing Ex. 5, Schedule 4).

⁵³² *Id.* at 10-12.

⁵³³ *Id.* at 13-15.

⁵³⁴ *Id.* at 15-16. The Company acknowledges that its “health and safety” measure was inadvertently omitted from the Residential IAQ Program measure listing provided in Filing Schedule 46A, Statement 2, at 13. *Id.* at 15. However, Dominion Energy notes that such measure was included in Mr. Hubbard’s Schedule 2 as part of the Program description and was referenced in a discovery response. *Id.* at 15.

⁵³⁵ As reflected above, § 56-576 of the Code also requires the Commission, when finding a DSM Program not to be in the public interest, to include in its final order “all work product and analysis conducted by the Commission’s staff in relation to that program, including testimony relied upon by the Commission’s staff, that has bearing upon the Commission’s decision....”

⁵³⁶ See Ex. 5 and 5ES, Schedule 4.

⁵³⁷ As noted above, Staff does not dispute that the Phase IX Residential IAQ Program technically meets the requirements of the Code. Staff Brief at 22, 26. Furthermore, Staff witness Boehnlein confirmed at the hearing that Staff did not recommend the Commission deny approval of the IAQ Program. Tr. at 148-49.

⁵³⁸ The evidence reflects that the health and safety measure was supported by the stakeholder group. See *id.* at 245. I also note that Staff did not specifically address or oppose the health and safety measure in its post-hearing brief.

⁵³⁹ I do not, however, share Staff’s level of concern regarding the possible focus of the Residential IAQ Program on multi-family housing stock. As credibly explained by the Company, although the participants in such Program’s predecessor (the Phase IV IAQ Program) came predominantly from multi-family housing, there is no evidence other customers were directly excluded. See Company Brief at 13-14. Nevertheless, I also recognize that the Commission may find it appropriate to direct Dominion Energy to work with its implementation vendor and WSP network to target a larger portion of single family and rural customers for participation in the Phase IX IAQ Program. See *id.* at 15.

concerns, and to facilitate the Commission's more comprehensive evaluation of the Company's IAQ Programs going forward, it appears appropriate for the Commission to direct the Company to provide more detailed supporting cost information for the measures included in its IAQ Programs going forward (consistent with the recommendation of Staff and Consumer Counsel).⁵⁴⁰

F. The HB 2789 (Solar Component) Program

(i) Inclusion in DSM Update

In Staff's assessment, the HB 2789 (Solar Component) Program is not legislatively required to be included as part of the Company's DSM Portfolio.⁵⁴¹ Staff distinguishes the requirements of Subsections A and B of § 56-596.2:1 of the Code.⁵⁴² Furthermore, Staff describes the HB 2789 Heating and Cooling/Health and Safety Program, required by Subsection A of § 56-596.2:1 and approved by the Commission in the *July 30, 2020 Order*, as being "more akin to a traditional [DSM] Program" than the HB 2789 (Solar Component) Program.⁵⁴³ Staff also notes that the Program required under Subsection A of § 56-596.2:1 of the Code is deemed to be part of the \$870 million in EE Programs required for development by a Phase II Utility but the Program required under Subsection B of § 56-596.2:1 is not included as part of the Code's monetary development requirement.⁵⁴⁴ Furthermore, although Staff acknowledges the General Assembly's addition in 2020 of § 56-585.1 A 5 g to the Code (allowing a utility to petition for a RAC associated with solar initiatives for low-income, elderly, and disabled individuals), Staff maintains that not every type of cost recovery provided for in § 56-585.1 A 5 of the Code is appropriate in a DSM proceeding.⁵⁴⁵ For all of these reasons, Staff suggests that the HB 2789 (Solar Component) Program may be better addressed in an alternative proceeding.⁵⁴⁶

Unlike Staff, Dominion Energy maintains its HB 2789 (Solar Component) Program is properly included as part of its Phase IX Portfolio of DSM Programs.⁵⁴⁷ According to the Company, the General Assembly clearly intended to link the two HB 2789 Programs, as reflected by the components of the first HB 2789 Program (weatherization) serving as prerequisite to the second HB 2789 Program (solar installations).⁵⁴⁸ In addition, the Company asserts that the General Assembly's addition of Subsection g to § 56-585.1 A 5 of the Code in 2020, establishing a RAC mechanism for cost recovery associated with a utility's development

⁵⁴⁰ See Tr. at 149. It would also appear appropriate for such information to be provided within in the chart recommended by Staff witness Morgan. See Ex. 16 and 16ES, at 6. Such recommendation is discussed in more detail below.

⁵⁴¹ Staff Brief at 15-17.

⁵⁴² *Id.* at 15-16.

⁵⁴³ *Id.* at 16.

⁵⁴⁴ *Id.* at 16-17.

⁵⁴⁵ *Id.* at 17.

⁵⁴⁶ *Id.* at 11.

⁵⁴⁷ Company Brief at 17-18.

⁵⁴⁸ *Id.*

of a solar incentive for low-income, elderly, and disabled customers, further demonstrates that consideration of the HB 2789 (Solar Component) Program in this case is appropriate.⁵⁴⁹

In my view, it is appropriate (and makes practical sense) for the Commission to consider the HB 2789 (Solar Component) Program in the context of this case given the relationship between the two HB 2789 Programs and the authority of the Company to seek recovery of associated costs through a RAC as provided in § 56-585.1 A 5 g of the Code.⁵⁵⁰

(ii) RECs

Staff believes the owner of a solar facility installed in connection with the HB 2789 (Solar Component) Program is also the rightful owner of RECs generated by such facility.⁵⁵¹ Moreover, Staff suggests that REC ownership issues should be considered in an RPS case instead of in this proceeding.⁵⁵²

In contrast, Dominion Energy contends it should retain ownership of RECs generated as a result of the HB 2789 (Solar Component) Program to reduce costs for all customers.⁵⁵³ Among other things, the Company notes that it is required to meet some of its RPS requirements “from RECs produced by ‘low-income qualifying’ projects to the extent available.”⁵⁵⁴ Dominion Energy also requests that the REC ownership issue be resolved in this case so that it will have clarity for its Program design.⁵⁵⁵

While I agree with Staff that the issue of REC ownership would normally be resolved in the context of the Company’s RPS filing, it makes practical sense for it to be addressed herein so that Program participants will know, through the Program’s design, exactly what they are getting when they elect to participate in the HB 2789 (Solar Component) Program. In addition, I am aware of no statutory impediment to resolving the REC ownership issue in this case. Furthermore, although I also agree with Staff that the owner of a renewable facility usually retains ownership of the RECs generated by such facility, the solar facilities installed through the HB 2789 (Solar Component) Program are somewhat different from typical renewable facilities. The costs of the solar facilities installed in the HB 2789 (Solar Component) Program will be paid for by the Company’s other customers. Moreover, § 56-585.5 C of the Code requires some of the Company’s RPS requirements to be met, when available, through RECs produced by “low-income qualifying” projects. Because, in my view, the HB 2789 (Solar Component) Program constitutes such a project, the associated RECs should be used to reduce costs to other customers (who have paid for the installation of the associated renewable facilities).

⁵⁴⁹ *Id.* at 18.

⁵⁵⁰ *See* Ex. 2 and 2ES, at 1 (reflecting that the Company filed the Petition pursuant to § 56-585.1 A 5 of the Code).

⁵⁵¹ Staff Brief at 18.

⁵⁵² *Id.*

⁵⁵³ Company Brief at 19-20.

⁵⁵⁴ *Id.*

⁵⁵⁵ *Id.*

(iii) Warranty

If the Commission approves the HB 2789 (Solar Component) Program, Staff urges the Commission to require the Program implementer to provide a full warranty covering the entire cost of the solar facility that a Program participant receives.⁵⁵⁶ In contrast, while acknowledging that participants in the HB 2789 (Solar Component) Program should not be burdened with out-of-pocket expenses arising from the applicable solar facilities, Dominion Energy contends that a warranty is unnecessary because of its commitment to provide annual inspections and perform maintenance at no cost.⁵⁵⁷

In my view, the warranty requested by Staff is unnecessary given the Company's commitment to ensuring no associated costs to participants going forward.⁵⁵⁸ However, it also appears appropriate for the Commission to approve the HB 2789 (Solar Component) Program subject to Dominion Energy meeting such commitment.

(iv) Approval

The General Assembly's amendment of HB 2789 in 2020 (through HB 1656) directed the Company's development of a three-year, \$25 million Program offering solar installations for low-income customers and organizations electing to participate in the Heating and Cooling/Health and Safety Program authorized by the 2019 version of HB 2789.⁵⁵⁹ Thereafter, Dominion Energy developed the HB 2789 (Solar Component) Program and proposed it for approval in this case. No case participant directly opposes the HB 2789 (Solar Component) Program. In addition, it appears to comply with § 56-596.2:1 B of the Code.⁵⁶⁰ Under the circumstances, I conclude it should be approved by the Commission.

G. Environmental Justice Concerns

According to Staff, both the Phase IX Residential IAQ Program and the energy efficient pool pump measure included in the Residential Water Savings (EE) Program raise environmental justice concerns.⁵⁶¹ Specifically, Staff maintains that environmental justice concerns arise relative to the Residential IAQ Program because of its focus on multi-family properties.⁵⁶² Staff also contends environmental justice concerns arise relative to the energy efficient pool pump measure because the associated benefits are concentrated with residential customers living in single-family dwellings and owning pools.⁵⁶³ Furthermore, given the VEJA's status as a new

⁵⁵⁶ Staff Brief at 18-19.

⁵⁵⁷ Company Brief at 19.

⁵⁵⁸ See also Tr. at 234-36 (wherein Company witness Frost confirmed Dominion Energy's commitment to ensuring participation in the HB 2789 (Solar Component) Program will come at no cost to participants for the life of the associated solar panel (and would include costs of removal)).

⁵⁵⁹ See Ex. 17, at 14; Ex. 6 and 6ES, at 3.

⁵⁶⁰ As discussed above, the Company's request for cost recovery associated with the HB 2789 (Solar Component) Program is also consistent with § 56-585.1 A 5 g of the Code.

⁵⁶¹ Staff Brief at 27-29, 20-21.

⁵⁶² *Id.* at 27-28.

⁵⁶³ *Id.* at 20.

law, Staff maintains that it is appropriate to raise such concerns “until such a time that the Commission provides guidance on how environmental justice is best addressed.”⁵⁶⁴

The Company denies that its request for the approval of the Phase IX Residential IAQ Program and the energy efficient pool pump measure in the Residential Water Savings (EE) Program gives rise to issues requiring a review under the VEJA.⁵⁶⁵ Dominion Energy also denies that the IAQ Program and energy efficient pool pump measure have negative environmental justice repercussions.⁵⁶⁶ According to Dominion Energy, its requests for the approval of the Residential IAQ Program and the pool pump measure were made pursuant to statutes seeking to achieve energy efficiency rather than an environmental law, regulation, or policy as contemplated by the VEJA.⁵⁶⁷ Moreover, the Company maintains that the Residential IAQ Program will not lead to environmental consequences potentially resulting in a lack of “fair treatment” to customers.⁵⁶⁸ Similarly, Dominion Energy asserts that the pool pump measure will not produce negative environmental consequences, particularly with regard to an identifiable community.⁵⁶⁹

Section 2.2-235 of the Code provides that “[i]t is the policy of the Commonwealth to promote environmental justice and ensure that it is carried out throughout the Commonwealth, with a focus on environmental justice communities and fence line communities.” Also within the VEJA, § 2.2-234 of the Code defines “environmental justice” as “the fair treatment and meaningful involvement of every person, regardless of race, color, national origin, income, faith, or disability, regarding the development, implementation, or enforcement of any environmental law, regulation or policy.” In addition, § 2.2-234 of the Code defines “fair treatment” as “the equitable consideration of all people whereby no group of people bears a disproportionate share of any negative environmental consequence resulting from an industrial, governmental, commercial operation, program, or policy.”

In my assessment, it is unclear the various statutory provisions governing the Commission’s approval of the Petition constitute “environmental law[s]” as contemplated by the VEJA. Regardless, even if the VEJA is implicated in this proceeding, the record does not reflect that the approval of the Residential IAQ Program or the energy efficient pool pump measure included in the Residential Water Savings (EE) Program would have negative environmental consequences on any particular individual or group of people. Under the circumstances, the requirements of the VEJA do not appear to impact the Commission’s approval of the Residential IAQ Program and the energy efficient pool pump measure in the Residential Water Savings (EE) Program.⁵⁷⁰

⁵⁶⁴ *Id.* at 28-29.

⁵⁶⁵ Company Brief at 35-38.

⁵⁶⁶ *Id.*

⁵⁶⁷ *Id.* at 35-37 (citing §§ 56-592.2, 56-585.1 A 5, and 2.2-234 of the Code).

⁵⁶⁸ *Id.* at 36 (noting that the definition of “environmental justice” in the VEJA includes the “fair treatment” of all people).

⁵⁶⁹ *Id.* at 37.

⁵⁷⁰ Like Staff, Consumer Counsel suggests the energy efficient pool pump measure should be removed. Consumer Counsel Brief at 11-12.

H. Strategic Plan/Achieving Statutory Targets

(i) Strategic Plan

As reflected above, the Environmental Respondent has serious concerns about its perception of the Company's lack of a strategic approach relative to its EE Programs.⁵⁷¹ The Environmental Respondent also highlights evidence reflecting that Dominion Energy will have a significant shortfall regarding its statutory savings obligations beginning in 2023 unless its EE efforts are improved.⁵⁷² To address such shortfall, the Environmental Respondent recommends that the Commission conditionally approve the Company's proposed Phase IX Programs and direct Dominion Energy to file a strategic plan with its next DSM Petition including: (1) proposed Program savings and budgets for the five-year period beginning January 1, 2022, sufficient to comply with the Company's statutory savings and investment obligations; (2) a proposed plan and framework for consolidating, streamlining, and marketing the public-facing aspects of the Company's approved and proposed DSM Programs to facilitate participation at the levels required to achieve the VCEA targets; and (3) a detailed project management plan and risk management strategy demonstrating that the Company has identified and planned for deployment of the resources required to implement its revised Programs.⁵⁷³

Dominion Energy asserts that the Commission should reject the Environmental Respondent's request for the conditional approval of the Phase IX Programs.⁵⁷⁴ Among other things, the Company suggests that conditional approval (based upon a supplemental filing) is not practical given timing considerations.⁵⁷⁵ Dominion Energy also confirms that the development of a long-term plan by its consultant, Cadmus, is underway and notes that such plan will include short-term, medium-term, and long-term recommendations for the improvement of the Company's DSM Portfolio.⁵⁷⁶ In addition, the Company outlines the topics that are expected to be included in its long-term plan (many of which overlap with the Environmental Respondent's recommendations).⁵⁷⁷

Given the statutory deadlines associated with a RAC filing such as the Company's Petition, I am unable to support the Environmental Respondent's recommendation for the conditional approval of the Phase IX Programs. Nevertheless, and consistent with Dominion Energy's commitment to including its long-term plan with its next DSM filing, I find it appropriate to recommend that the Commission require Dominion Energy's inclusion of the elements identified by the Environmental Respondent in the long-term plan that it files with the

⁵⁷¹ ER Brief at 7.

⁵⁷² *Id.* at 8 (citing Ex. 12, at 4; Ex. 17, at 8).

⁵⁷³ *Id.* at 9-10.

⁵⁷⁴ Company Brief at 32-35.

⁵⁷⁵ *Id.* at 33-34.

⁵⁷⁶ *Id.* at 34.

⁵⁷⁷ *Id.* at 28. *See also* Tr. at 220 (Company witness Frost acknowledging that the development of Dominion Energy's long-term plan generally seems to align with many of the Environmental Respondent's recommendations).

Commission.⁵⁷⁸ I also recommend that the Commission direct the Company to file such long-term plan with its next DSM Update.

(ii) Energy Savings Metrics

In connection with its concerns regarding the Company's likely inability to achieve statutory energy savings targets going forward, the Environment Respondent urges the Commission to clarify, in this docket, that such savings should be evaluated using a net savings metric and not based upon gross savings.⁵⁷⁹ According to the Environmental Respondent, use of the word 'achieve' in the relevant statutory provisions (§§ 56-576 and 56-596.2 of the Code) shows that "net savings" is the correct metric for evaluating whether Dominion Energy has met statutory savings targets.⁵⁸⁰

In the rebuttal testimony of Company witness Frost, Dominion Energy presented its savings projections using both net and gross savings metrics because, according to Mr. Frost, the Code is "silent as to which is the appropriate metric to evaluate with respect to energy savings."⁵⁸¹ Mr. Frost also suggested that consideration of whether the Company will meet VCEA targets is premature since the first target does not occur until 2022 and the evaluation of whether Dominion Energy has met the first statutory target will not occur until 2023.⁵⁸² Furthermore, although the Company maintains that no specific Commission action regarding its GTSA and VCEA progress is required at this time, Dominion Energy acknowledges its need to achieve more savings and commits to addressing such need through consultation with stakeholders and in accordance with its long-term plan.⁵⁸³

In my assessment, consideration of whether a net or gross savings metric should be used to determine the Company's target compliance will be appropriate in the context of evaluating whether Dominion Energy has actually met statutory targets. Because such issue is not directly before the Commission at this time, I conclude it need not be addressed in this case.⁵⁸⁴

⁵⁷⁸ See Tr. at 225-26 (Frost cross-examination). The inclusion of proposals for the improvement of marketing in the long-term plan should also help to address marketing issues raised by Staff. See Ex. 13, at 42-45, 94. See also Company Brief at 28-29 (describing the Company's intended marketing improvements and suggesting that it is willing to increase administrative spending associated with such marketing if recommended by the Commission). In my assessment, it would be appropriate to review the possibility of increased administrative spending associated with marketing in conjunction with the review of the Company's long-term plan.

⁵⁷⁹ ER Brief at 10-13.

⁵⁸⁰ *Id.* at 12.

⁵⁸¹ Ex. 17, at 7.

⁵⁸² *Id.* at 4.

⁵⁸³ Company Brief at 28.

⁵⁸⁴ However, should the Commission find it appropriate to approve a particular savings metric in this case, I view the Environmental Respondent's interpretation of the statutory target provisions and use of net savings to be persuasive. As reflected above, "net savings" are directly caused by a DSM Program but "gross savings" are generated for Program participants without consideration of why they occurred. See Tr. at 106. Because the relevant statutory provisions focus on the development of DSM Programs "to achieve" energy savings and the level of savings "achieved" by EE and DR Programs, it would appear appropriate for the Commission to adopt the Environmental Respondent's recommendation regarding the use of the net savings metric. See §§ 56-576 and 56-596.2 of the Code.

(iii) Sufficiency of proposed Programs

The Environmental Respondent also asserts that the Commission should require Dominion Energy to propose sufficient Programs in future DSM filings to meet the targets set out in § 56-596.2 of the Code.⁵⁸⁵ Specifically, the Environmental Respondent suggests that absent such a directive, the Company could seek to recover a margin pursuant to § 56-585.1 A 5 c of the Code based upon the Commission's failure to approve sufficient Programs for meeting the targets in § 56-596.2, even if Dominion Energy never proposed appropriate DSM Programs to meet statutory EE targets.⁵⁸⁶

Although I agree that the Environmental Respondent describes a troubling potential scenario, I do not view such a speculative possibility to warrant a specific Commission directive in this case.⁵⁸⁷

I. EM&V Concerns

According to Staff, recent statutory changes effectuated by the passage of the GTSA in 2018 and the passage of the VCEA in 2020 increase the importance of accurate EM&V.⁵⁸⁸ Staff also contends the Company's current EM&V practices fail to satisfy the need for increased rigor.⁵⁸⁹ Moreover, Staff suggests that consideration of EM&V in the Program design stage is likely to achieve more accurate measurements of energy savings.⁵⁹⁰ In addition, Staff maintains that Dominion Energy's current EM&V practices and reporting schedule fail to allow for the Commission's timely consideration of actual energy savings to meet statutory requirements.⁵⁹¹ In sum, Staff believes "[m]ore rigorous EM&V earlier in a [P]rogram's life would provide better information about the feasibility of achieving [EE] goals and future savings through the Company's DSM [P]rograms."⁵⁹² However, Staff makes no specific recommendation for the Commission to take action in the present case to address the EM&V concerns that it raised.

The Company notes that it has agreed in the *EM&V Determination Case* to include additional Program and portfolio tracking metrics relating to the performance of its DSM Programs and progress toward meeting GTSA and VCEA targets.⁵⁹³ Dominion Energy also maintains that the *EM&V Determination Case* constitutes the appropriate forum for addressing further EM&V reporting requirements.⁵⁹⁴ In addition, the Company highlights its commitment to provide the information recommended by Environmental Respondent witness Grevatt in its

⁵⁸⁵ ER Brief at 13-15.

⁵⁸⁶ *Id.* at 14.

⁵⁸⁷ I also agree with Consumer Counsel's assertion that Dominion Energy will bear the burden of proving it has met statutory savings targets in any proceeding wherein it seeks cost recovery tied to meeting such targets. *See* Consumer Counsel Brief at 12.

⁵⁸⁸ Staff Brief at 30-31.

⁵⁸⁹ *Id.* at 31-33.

⁵⁹⁰ *Id.* at 33-35.

⁵⁹¹ *Id.* at 35-36.

⁵⁹² *Id.* at 36.

⁵⁹³ Company Brief at 31-32.

⁵⁹⁴ *Id.* at 32. Dominion Energy also suggests that the Commission should not "duplicate resources" by addressing EM&V issues in this case. *Id.* at 39.

yearly DSM filings.⁵⁹⁵ Similarly, Dominion Energy commits to following the Commission's guidance in the *EM&V Determination Case*.⁵⁹⁶ Finally, regarding the EM&V plans submitted for the Phase IX Programs, the Company asserts that such plans are reasonable, were developed consistent with industry standards, and should be approved by the Commission.⁵⁹⁷

The record reflects that Dominion Energy retained DNV to develop and execute the EM&V plans for the Phase IX Programs.⁵⁹⁸ Such plans outline the approaches DNV and Dominion Energy expect to use to track savings and conduct impact evaluations consistent with industry standards. Based upon the evidence presented, I perceive no basis for the Commission to deny approval of the Company's proposed EM&V plans for the Phase IX Programs in this docket, with the understanding that such plans may be subject to modification based upon the Commission's finds in the *EM&V Determination Case*.

J. Associated Riders and Revenue Requirement

As reflected above, the Company initially proposed an overall revenue requirement of \$78,119,830, including a margin on operating expenses from January to August 2022.⁵⁹⁹ However, on rebuttal Dominion Energy asserted that a modification to the overall DSM revenue requirement (associated with individual revenue requirements for the True-up components of Riders C1A, C2A, and C3A) was required because of a necessary adjustment identified in Dominion Energy's pending 2021 Triennial Review.⁶⁰⁰ No case participant opposes such adjustment. Dominion Energy (through its witness, Ms. Lecky) submitted Rebuttal Schedules supporting alternative rebuttal DSM Rider requirements – including the 2021 Triennial Review adjustment and reflecting the revenue requirements of Rider C1A, C2A, C3A, and C4A both with and without the inclusion of a margin on operating expenses incurred after January 1, 2022. Such revenue requirements are replicated as follows:

DSM Rider Rate Year Revenue Requirements Excluding Margin⁶⁰¹

	Rider C1A	Rider C2A	Rider C3A	Rider C4A	Total
Rate Yr. Projected RR	\$3,640,794	\$2,878,837	(\$226,563)	\$78,211,888	\$84,504,956
Monthly True-up Adj.	(\$2,272,087)	(\$1,069,480)	(\$7,326,013)		(\$10,667,580)
Total RR	\$1,368,707	\$1,809,357	(\$7,552,576)	\$78,211,888	\$73,837,376

⁵⁹⁵ *Id.* at 32.

⁵⁹⁶ *Id.* at 39.

⁵⁹⁷ *Id.* at 39-40.

⁵⁹⁸ See Ex. 11; Ex. 23.

⁵⁹⁹ Ex. 2 and 2ES, at 14.

⁶⁰⁰ Ex. 19 and 19ES, at 1.

⁶⁰¹ *Id.* at Rebuttal Sch. 1.

DSM Rider Rate Year Revenue Requirements Including Margin from Jan. to Aug. 2022⁶⁰²

	Rider C1A	Rider C2A	Rider C3A	Rider C4A	Total
Rate Yr. Projected RR	\$3,635,415	\$2,936,555	(\$226,563)	\$83,035,266	\$89,380,672
Monthly True-up Adj.	(\$2,272,087)	(\$1,069,480)	(\$7,326,013)		(\$10,667,580)
Total RR	\$1,368,328	\$1,867,075	(\$7,552,576)	\$83,035,266	\$78,713,092

According to Staff and Consumer Counsel, § 56-585.1 A 5 c of the Code, as amended by the VCEA, precludes the award of a margin on projected operating expenses after January 1, 2022.⁶⁰³ In contrast, the Company maintains that the Commission has the discretion to award such a margin.⁶⁰⁴

Section 56-585.1 A c of the Code states in pertinent part: “[b]eginning January 1, 2022, and thereafter, if the Commission determines that the utility meets in any year the annual energy efficiency standards set forth in § 56-596.2, *in the following year*, the Commission shall award a margin on energy efficiency program operating expenses in that year” In my assessment, the plain language of § 56-585.1 A c of the Code does not contemplate the award of a margin on operating expenses (subsequent to January 1, 2022) until after the Commission has determined that the targets of § 56-596.2 of the Code have been met.⁶⁰⁵ Therefore, I conclude the overall revenue requirement should not include the margin proposed by the Company. I further conclude the Commission should approve a total revenue requirement of \$73,837,376 for the Rate Year (the amount reflected on Ms. Lecky’s Rebuttal Schedule 1).⁶⁰⁶

With the exception of the margin issue discussed above, no material issues concerning the Company’s revenue requirement calculations were raised by Staff or the parties. I note further that Dominion Energy utilized the same allocation methodology and rate design approved in the Commission’s *July 30, 2020 Order*.⁶⁰⁷ I therefore conclude the Company’s rebuttal revenue requirement calculations (including the 2021 Triennial Review adjustment impacting the True-up but excluding the margin), cost allocation methodology, and rate design should be approved by the Commission.

Furthermore, to assist Staff with their audits of Program costs supporting DSM Riders going forward, I recommend that the Commission direct the Company to provide with its next DSM filing a chart that summarizes the following for all active Programs through the end of the True-up period: (1) total incentives; (2) incentive cost per participant; (3) non-incentive cost per

⁶⁰² *Id.* at Rebuttal Sch. 2.

⁶⁰³ Staff Brief at 39-41; Consumer Counsel Brief at 5-7.

⁶⁰⁴ Company Brief at 40-41.

⁶⁰⁵ Staff witness Morgan’s conclusion that cost caps for the Phase IX Programs should be based solely on Program costs (excluding margins) also appears consistent with such interpretation of § 56-596.2 of the Code. *See* Ex. 16 and 16ES, at 11-12.

⁶⁰⁶ *See also* Ex. 20.

⁶⁰⁷ Ex. 13, at 89-90.

participant; (4) margin cost per participant; (5) total cost per participant; and (6) the percentage of margin and non-incentive costs in relation to total costs. Staff witness Morgan made such request in his prefiled testimony and it was not directly opposed by the Company.⁶⁰⁸

Finally, I recognize that the Petition requested its new DSM rates go into effect on September 1, 2021 – that is, at the commencement of the Rate Year.⁶⁰⁹ However, because Dominion Energy's Petition was not actually complete until January 7, 2021, when the Company filed supplemental information as directed by the Commission, it is quite unlikely a final order on the Petition will be entered in time to achieve the proposed implementation of new DSM rates as of September 1, 2021.⁶¹⁰ Nevertheless, it is my understanding, based upon representations made by the Company and Staff during the hearing, existing DSM rates will continue until new DSM rates are approved by the Commission and a new tariff filing is made.⁶¹¹

FINDINGS AND RECOMMENDATIONS

In conclusion, based on the record developed in this proceeding and upon the discussion above, I find:

1. The Commission should approve the Company's proposed 11 Phase IX DSM Programs and, with regard to the approval of the HB 2789 (Solar Component) Program should condition such approval upon the Company's commitment to ensuring no costs to participants going forward;

2. The Commission should approve the Company's proposed extension of its Phase II Non-residential DG Program for an additional two years;

3. The Commission should approve the expanded eligibility requirements proposed by Dominion Energy for its Phase VII and Phase VIII Non-residential Lighting Systems and Controls, Non-residential Heating and Cooling Efficiency, Non-residential Window Film, and Non-residential Small Manufacturing Programs;

4. The Commission should direct the Company to investigate, and implement if appropriate, opportunities to streamline its audit Programs going forward;

5. The Commission should direct the Company to provide detailed supporting cost information for the measures included in its IAQ Programs going forward;⁶¹²

6. The Commission should approve the Company's plan to retain the RECs generated by the HB 2789 (Solar Component) Program for use in fulfilling the Company's RPS obligations;

⁶⁰⁸ See Ex. 16 and 16ES, at 6; Ex. 18, at 4.

⁶⁰⁹ Ex. 2 and 2ES, at 11.

⁶¹⁰ See Preliminary Order at 5, n.21.

⁶¹¹ Tr. at 283-85.

⁶¹² It would appear appropriate for such information to be provided in the chart referenced in Paragraph 8 below.

7. The Commission should direct the Company to file a long-term plan with its next DSM Update that, at a minimum, includes (i) proposed Program savings and budgets for the five-year period beginning January 1, 2022, sufficient to comply with the Company's statutory savings and investment obligations; (ii) a proposed plan and framework for consolidating, streamlining, and marketing the public-facing aspects of the Company's approved and proposed DSM Programs to facilitate participation at the levels required to achieve the VCEA targets; and (iii) a detailed project management plan and risk management strategy demonstrating that the Company has identified and planned for deployment of the resources required to implement its revised Programs;

8. The Commission should direct the Company to provide with its next DSM filing a chart that summarizes the following for all active programs through the end of the True-up period: (i) total incentives; (ii) incentive cost per participant; (iii) non-incentive cost per participant; (iv) margin cost per participant; (v) total cost per participant; and (vi) the percentage of margin and non-incentive costs in relation to total costs;

9. The Rate Year projected revenue requirement for Rider C1A is \$3,640,794, for Rider C2A is \$2,878,837, for Rider C3A is (\$226,563), and for Rider C4A is \$78,211,888;

10. The Monthly True-Up Adjustment for Rider C1A is (\$2,272,087), for Rider C2A is (\$1,069,480), for Rider C3A is (\$7,326,013), and for Rider C4A is \$0; and

11. The total Rate Year revenue requirement for Rider C1A is \$1,368,707, for Rider C2A is \$1,809,357, for Rider C3A is (\$7,552,576), and for Rider C4A is \$78,211,888, for an overall total Rate Year revenue requirement for Riders C1A, C2A, C3A, and C4A of \$73,837,376.

Accordingly, **I RECOMMEND** the Commission enter an order that:

1. **ADOPTS** the findings of this Report; and
2. **DISMISSES** this case from the Commission's docket of active cases.

COMMENTS

Staff and the parties are advised that, pursuant to Rule 5 VAC 5-20-120 C of the Commission's Rules of Practice and Procedure and § 12.1-31 of the Code, any comments to this Report must be filed on or before August 10, 2021. In accordance with the directives of the Commission's *COVID-19 Electronic Service Order*⁶¹³ the parties are encouraged to file electronically. If not filed electronically, an original and fifteen (15) copies must be submitted in writing to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document certifying copies have been sent to all counsel of record and any such party not represented by counsel.

Respectfully submitted,



A. Ann Berkebile
Senior Hearing Examiner

Document Control Center is requested to send a copy of the above Report to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, VA 23219.

⁶¹³ *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service, (April 1, 2020) ("*COVID-19 Electronic Service Order*").